

***United States Court of Appeals
for the Second Circuit***

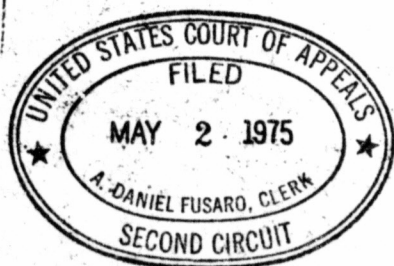


TRANSCRIPT

P. 2465-2857^B

74-2639

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SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, NEW YORK 10007

TELEPHONE CORTLANDT 7-4500

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2465

United States of America

vs.

74 Cr. 159

Philip Stoller and Martin Frank

New York, New York.

October 8, 1974 - 9:45 A.M.

(Trial resumed.)

(In open court; jury present.)

THE COURT: Good morning, Mrs. DeBartola and ladies and gentlemen.

MR. GOULD: Do I understand your Honor, that on Mr. Feldshuh's application, we are going to withdraw this witness at this time?

MR. SORKIN: I thought --

THE COURT: I thought we were going to finish the direct and then withdraw.

MR. GOULD: It won't take very long. I would much prefer to do that.

THE COURT: To do what?

MR. GOULD: To finish with the witness.

THE COURT: Yes, that is what I thought we had agreed upon.

MR. GOULD: He misunderstood, your Honor. I understand.

1 gab-2

Jerome Allen-direct

2 J E R O M E R O B E R T A L L E N resumed

3 DIRECT EXAMINATION (continued)

4 BY MR. GOULD:

5 Q Mr. Allen, there has been some testimony here
6 about a meeting in October 1969 at your office, Mr. D'Onofrio,
7 yourself and Stoller in which -- and I mentioned something
8 about this yesterday -- it is alleged that Stoller said
9 he would kill Bonavia if Bonavia testified about Training
10 With the Pros.

11 Did you ever attend such a meeting?

12 A I never heard Phil say that, sir.

13 Q Did you ever hear or see Mr. Stoller threaten Mr.
14 Bonavia in any way?

15 A No, sir.

16 Q Now, sir, there is testimony by Mr. D'Onofrio
17 about a meeting in November 1969 at his office with you
18 and Stoller in which it is alleged that Stoller threatened
19 to bury Bonavia.

20 Did you participate in anything like that?

21 A No, sir.

22 Q Do you know anything about it?

23 A No, sir.

24 Q One other thing about these meetings. Did you
25 have a meeting with Mr. Bonavia in Mr. Frank's office in the

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Jerome Allen-direct

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2 fall of 1970?

3 A Yes, that was about a law school application, yes,
4 sir.

5 Q When was it? Give us your best recollection
6 as to the date.

7 A About three or four years ago. I would say '71 --
8 '70, but I don't remember the month. Mr. Bonavia called me
9 and said his son was about to graduate from Drake University
10 with honors, a very brilliant boy and he wanted --

11 MR. SORKIN: I object to any hearsay.

12 Q Just what was said with Mr. Frank in the office.

13 A He wanted Mr. Frank to help his son apply to
14 Harvard or Yale or Virginia law school.

15 Q Did you have a meeting with Mr. Feldshuh at
16 the time?

17 A Yes. I think Mr. Feldshuh was out of the office,
18 but Frank said that Feldshuh as a graduate of Harvard Law could
19 properly approach the admissions department.

20 Q Was there any discussion in that meeting of
21 Training With the Pros?

22 A No, sir, it was about getting into law school.

23 Q Was there any discussion about Mr. Bonavia testi-
24 fying before a grand jury?
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Jerome Allen-direct

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A I don't remember any.

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Q Mr. Allen, have you seen Mr. D'Onofrio during the year 1974?

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A On about three or four occasions in this courthouse.

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Q Do you remember a meeting with him in January of 1974?

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A I met him in the sub-basement in Room 13, the marshall's office.

11

Q Did you have a conversation with him?

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A Yes, sir, he handed in his voucher. I think he told me he was staying at the Plaza with some woman named Sandy.

15

16

Q Did there come a time, sir, when you had a meeting with D'Onofrio in front or outside of Mr. Sorkin's office --

17

A Yes, sir.

18

Q -- in the early part of 1974?

19

A Yes, sir. It was outside Mr. Sorkin's office.

20

21

MR. SORKIN: Can we fix the date of this a little bit better?

22

MR. GOULD: I am doing my best.

23

24

25

A I first met Mr. D'Onofrio in the marshall's office before the Training indictment was handed down. Mr. D'Onofrio told me he would be a co-conspirator and not a

co-defendant and I should play it smart also.

Q Now, sir, come back to a conversation with D'Onofrio, if you had one, outside of Mr. Sorkin's office.

Do you remember that?

A Yes, sir.

Q Can you tell us precisely, if possible, when that occurred?

A The conversation -- the first conversation with Mr. D'Onofrio was before the Training indictment was handed down. I would think that would be the end of January, beginning of February.

Q Is that the one in the marshal's office?

A Yes, sir. We were both handing in vouchers that day. I handed one in for \$20. Then he said to me at the time -- I said "Ray, when do you think the Training indictment is coming down?"

He said, "I don't know the exact date, but I have been promised I would be a co-conspirator and not a defendant."

I said, "That's strange."

He said, "Well, that's the way it is."

And we talked a little bit about the stock market. He made some references to some deal he was working.

Q Anything else in that conversation at the

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2 marshal's office?

3 A He said if I was smart I would cooperate with
4 the Government and go their way is the way he stated it.

5 Q Go their way. Were those his words or is that --

6 A That's his words, go their way.

7 Q All right.

8 THE COURT: Mr. Allen, I don't follow this at
9 all. First of all, you say you talked to Bonavia outside
10 of --

11 THE WITNESS: D'Onofrio.

12 THE COURT: D'Onofrio?

13 THE WITNESS: Yes.

14 MR. GOULD: Yes, your Honor, D'Onofrio.

15 THE COURT: I am sorry, I misunderstood.

16 A It was Mr. D'Onofrio, your Honor.

17 THE COURT: It was D'Onofrio?

18 THE WITNESS: Yes.

19 THE COURT: When was it you say you talked to him
20 outside of Sorkin's office?

21 MR. GOULD: I haven't come to that one yet.

22 THE WITNESS: This is a meeting in the marshal's
23 office, sir.

24 THE COURT: You certainly have my confused.
25 We are going back to this business of January.

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THE WITNESS: The first meeting with Mr.

D'Onofrio I believe was in late January, your Honor.

THE COURT: That is when he is down picking up --

THE WITNESS: His vouchers.

THE COURT: I see.

THE WITNESS: I was there waiting for my voucher.

THE COURT: You were waiting for your voucher?

THE WITNESS: Yes, sir.

THE COURT: We haven't even come to whatever this meeting is that Mr. Gould keeps asking about outside of Mr. Sorkin's office.

THE WITNESS: That came after the first meeting, your Honor.

THE COURT: Since I have totally misunderstood, help me out a little more.

When was it that you met outside of Sorkin's office?

THE WITNESS: After the Training indictment came down.

THE COURT: You have to do better than that. There have been a number of indictments here, as I think you know. What do you mean by that precisely?

THE WITNESS: I believe the Training indictment came down in mid-February, your Honor, and I saw Mr.

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Jerome Allen-direct

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D'Onofrio about two or three weeks after I was named in
the Training indictment.

THE COURT: That would be perhaps in early
March?

THE WITNESS: Yes, your Honor.

THE COURT: You are sure about that?

THE WITNESS: I believe so, give or take a
week.

THE COURT: Forgive me. I am sorry.

End 1

2 Q Now, sir, did you have a conversation with
3 D'Onofrio from outside of Mr. Sorkin's office?

4 A Yes, sir.

5 Q Was anybody else present?

6 A No, sir.

7 Q Just you and D'Onofrio?

8 A Yes, sir.

9 Q Would you be good enough to tell us what he said
10 to you and you said to him?

11 A Well, in the beginning of the conversation there
12 was just some talk about the fact that he had lost a lot of
13 weight. He told me he had been at the Duke University
14 Clinic on a special rice diet and he suggested I go there.
15 He asked me a little about my family, how I was doing. I
16 said, "Ray, I consider it odd that I was named as a co-defendar
17 in Training and you were named as a co-conspirator."

18 He said, "I am cooperating with the Government.
19 I have been cooperating", and then we discussed some of
20 the Training situations and he told me in effect some of the
21 things that he would say before the grand jury in court.

22 Q You will have to be more precise, Mr. Allen.
23 What did he tell you, not in effect, but in substance, the
24 substance of what he said?

25 A He told me that in order to take pressure off

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Jerome Allen-direct 2474

himself he would testify with the assistance of Mr. Sorkin that Mr. Frank, Mr. Stoller and myself in fact structured the entire training deal and Ray said he didn't want 17 or 18 years in prison and that is the way he had to say it and if I were smart, I would not contradict his key testimony because if I fought the Government I would probably get consecutive sentences.

Q Consecutive?

A Yes, sir.

Q Anything else in that conversation?

A Yes, sir.

He asked me if I still had contacts in Europe because he said he was locked into a stock called Gloco or Gluco, I don't remember, sir.

I said, "What's that" and he said, "Remember, I once let you borrow some stock from me in Gowco. I still have a lot of it, is there any place you can sell it for me."

It was unregistered stock.

Q Anything else that you remember about the conversation?

A He just said if I were smart I would, in effect, reiterate what he was going to say and cooperate with the Government and say what they wanted me to say.

Q Now, sir, do you know Mr. Feeney? I think I asked you about Feeney yesterday.

A Yes, sir.

Q Did you have a meeting with Mr. Feeney in August 1973?

A In August of '73 or '74?

Q '73 or '74.

A I saw Jim in the summer of '73 and I saw him again just a few months ago in the hallway outside Room 301.

Q Go to the conversation in '73, sir. At that time did you have a conversation with him about Training With the Pros?

A Yes, sir.

Q Was anybody present other than you and Mr. Feeney?

A No, we were at the Gaslight Club.

Q Where?

A At the Gaslight Club on East 56th Street.

Q It's a restaurant?

A Like a Playboy Club type of thing.

Q Would you tell us what the conversation was?

A I told Jim that I --

MR. SORKIN: Was anyone else present?

MR. GOULD: I asked that and he said nobody else was present.

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Jerome Allen-direct 2476

2 MR. SORKIN: I didn't hear him.

3 A I told Jim that I had been down to Mr. Sorkin's
4 office without my attorney on a number of occasions, that
5 they were putting pressure on me to cooperate with them,
6 threatening that they would name me in a number of indict-
7 ments.

8 In that particular month, I already had been
9 named in a case called Coatings Unlimited in the beginning
10 of August and Mr. Feeney was a co-defendant in that case.

11 I said to Mr. Feeney "We both have been named in
12 Coatings and, Jim, I don't honestly think I deserve to be
13 named in that case, but the Government told me they were
14 naming me because I refused to cooperate with them on the
15 forthcoming indictment on the stock called Training."

16 MR. SORKIN: Can we get who in the Government?

17 THE WITNESS: You, sir, Mr. Sorkin.

18 MR. GOULD: He is just giving the conversation.

19 A I said, "Jim, isn't it odd that when the SEC
20 had a civil action against Coatings I was never called down,
21 I never signed a consent decree, I never appeared before a
22 grand jury and I am very bitter because Mr. Sorkin said if
23 you cooperate with us to get Marty Frank I won't name you
24 in Coatings, your part in that was quite peripheral."

25 Jim said, "He is not the U. S. Attorney, he can't

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Jerome Allen-direct 2477

Speak for them."

Q Was there anything else about Training With the Pros? What did you say to Mr. Feeney?

A I said, "Jim, what do you know about Training With the Pros and what Mr. D'Onofrio did," and he said, "Ray never discussed that with me. Ray did a lot of deals behind my back which I am quite bitter about."

Q Did you meet, after that Gaslight Club conversation with Feeney, did you meet Feeney in Switzerland in November 1973?

A November, '74, sir.

Q "74?

A Yes.

Q '73 rather. It must be '73.

MR. SORKIN: We are in October '73.

A I went to Switzerland on October 11 or 12 of '73 and Jim came over either late October or early November, Mr. Gould.

Q I think you told us yesterday it was the Nova Park Hotel?

A Yes, sir.

Q Did you have a meeting with Feeney there at the Nova Park Hotel?

A A few meetings, sir.

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Jerome Allen-direct 2478

2 Q Was there anything about Training With the Pros,
3 any conversation with him about Training With the Pros,
4 just yes or no?

5 A Yes.

6 Q When, where and who was present?

7 A I was alone with Jim at the bar on the main floor
8 of the hotel and I said, "Jim, I anticipate the Government
9 is going to come down with the Training indictment and he
10 said, "Thank God I never was involved in that", this is
11 Jim speaking.

12 Q Was there anything else he said about it?

13 A He said he had enough problems about his own.
14 He doesn't know a damn thing about Training and he wished
15 me luck on the case.

16 Q Now, sir, did you talk to Feeney on the telephone
17 at any time during 1974?

18 A During '74?

19 Q That's right, this year.

20 A Yes, I spoke to Jim at his home in Babylon on a
21 number of occasions because he was awaiting sentencing af-er
22 pleading guilty to a Coatings indictment.

23 THE COURT: Will you please spell that for us? You
24 keep saying something called Coatings.

25 MR. GOULD: It's been identified.

1 THE COURT: Perhaps it has but I want the
2 witness to identify it.

3 THE WITNESS: Coatings Unlimited.

4 MR. GOULD: C-o-a-t-i-n-g-s, your Honor.

5 THE COURT: Thank you.

6 Q In any of these telephone conversations with him,
7 did you discuss Training With the Pros in any way?

8 A No, I discussed Coatings primarily because the
9 case had not been adjudicated as yet.

10 Q Did there come a time during the summer of 1974
11 when you met Feeney in this building?

12 A Yes, sir.

13 Q Gives us as precisely as you can, the date.

14 A It was either late July or early August. I
15 can't swear to the exact week. I walked out of Mr. Sorkin's
16 office toward the middle elevators and there are two desks,
17 each of which had a phone on it.

18 I went to call my answering service and I was
19 startled to see Jim walking with a tall man partially
20 bald, because I had assumed Jim was in Allenwood.

21 Jim greeted me and I put down the receiver and he
22 turned toward this man, I assume it was a marshal. He was not
23 handcuffed. He had a dark pinstriped suit and he said,
24 "Jerry, I am in Allenwood." I said, "How are things there?"
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Jerome Allen-direct 2480

2 I may land up there." I made a bad joke. He said, "Not too
3 grim."

4 I said, "What are you doing here," and he said,
5 "They are preping me on Training, preparing me on Training."

6 Q Anything else?

7 A No, sir. At that time the marshal came back and
8 they walked away together.

9 Q Did he mention Mr. Sorkin in that conversation?

10 A No, sir, he said, "They are preping me on
11 Training."

12 Q Mr. Allen, in the course of your testimony here
13 you have referred to certain indictments against you.

14 Would you tell us what indictments there are out-
15 standing against you?

16 A I was indicted in '73 in a case where the prose-
17 cutor was Mr. Eberhart. I referred to it as the Passbook
18 case.

19 MR. SORKIN: I think there is a proper way to do
20 this rather than going through this.

21 MR. GOULD: I think this is a quick and easy way.
22 If he objects we will do it that way.

23 THE COURT: Gentlemen, please. The real problem
24 I think is this: The question, Mr. Allen, is simply when
25 were you indicted, what was the name of the case and that is

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Jerome Allen-direct 2481

2 all.

3 I don't want any digressions from you further,
4 do you understand me?

5 THE WITNESS: Yes, your Honor.

6 THE COURT: Let's proceed on that basis.

7 MR. GOULD: Thank you, your Honor.

8 Q Let's take these one at a time.

9 I think you would be better off if you could
10 do it, Mr. Allen, by giving them to me chronologically,
11 if you can.

12 A I was indicted in early '73 on a case called
13 the Passbook case, Mr. Eberhart the prosecutor.

14 In August --

15 Q Has that case been disposed of?

16 A I pleaded guilty and testified for the Govern-
17 ment. I am awaiting sentencing.

18 Q Next.

19 A I was indicted in August of '78 in a case called
20 Coatings.

21 Q Called what?

22 A Coatings Unlimited. I pleaded guilty to one
23 count and I am currently moving to change that plea.

24 Q You are awaiting sentence or other disposition?

25 A Yes, sir.

1 jge Jerome Allen - direct 2482

2 Q That is in this court?

3 A Yes, sir.

4 Q And in the other case you mentioned with Eberhart,
5 where was that?

6 A Across the street in Federal Plaza.

7 Q You mean across the river.

8 A No, sir, in the big green building across the
9 street.

10 Q I see, all right.

11 A When I returned from Switzerland on January 15
12 I was named in an indictment called the Blocker indictment.
13 where the Government went nolle prosequi, if that is the
14 correct word.

15 THE COURT: You say January, you mean January of
16 this year, sir?

17 THE WITNESS: Yes, sir.

18 THE COURT: You were indicted in a case and what
19 was the name of the case again?

20 THE WITNESS: Blocker.

21 Q You say there has been a nolle prosequi filed
22 there?

23 A Yes, sir. And in mid-February of this year,
24 I think February 14, I was indicted in Training With the
25 Pros.

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Jerome Allen - direct 2483

2 Q That is this case on trial now?

3 A Yes, sir.

4 MR. SORKIN: May we have the rest of the answer?
5 I think he was giving also the disposition of all the indict-
6 ments and he stopped.

7 THE COURT: That is up to the questioner. If
8 you want to do it on cross you certainly may.

9 MR. SORKIN: Thank you.

10 Q These indictments you have mentioned, does Mr.
11 Stoller have anything to do with those matters?

12 A He had nothing to do with Coatings, Blocker or
13 the Passbook.

14 He was named in the Training, however.

15 Q That is the only thing you know about concerning
16 Mr. Stoller, this case?

17 A Yes, sir.

18 Q Were you indicted, sir, in the Pentron case? Did
19 you mention something called Pentron yesterday?

20 A You asked me that yesterday, Mr. Gould, yes, sir.

21 Q That is another one?

22 A That was '68, I believe.

23 Q What was the disposition of that?

24 A Judge Cannella fined me \$10,000.

25 THE COURT: Wait a minute. So that there is an

1 jge Jerome Allen-direct 2484

2 additional indictment, right?

3 THE WITNESS: That is the one I answered to
4 yesterday, your Honor.

5 THE COURT: Perhaps you did but my problem once again
6 is I have great difficulty in understanding you.

7 Mr. Gould, the lawyer questioning you, asked you
8 for all the indictments, right?

9 THE WITNESS: Yes, sir.

10 THE COURT: He didn't tell you to leave this
11 out.

12 THE WITNESS: I thought he meant the ones that
13 haven't been disposed of.

14 THE COURT: Let's get all of them, whether you
15 mentioned them to him or somebody in the City, I don't care.
16 I want to know all of them. What is this one and when did
17 it come down, according to your recollection?

18 THE WITNESS: I believe it came down in 1968.

19 THE COURT: 1968, in this court, called U. S. A.
20 versus Pentron?

21 THE WITNESS: Yes, sir.

22 MR. GOULD: It is not called that. It's U. S. A.
23 against Jerome Allen, 68 Criminal 20.

24 THE COURT: Let's see what the witness recalls.
25 You said Pentron but now I understand that you were the

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Jerome Allen-direct

2485

2 defendant.

3 THE WITNESS: It is called the Pentron case,
4 your Honor.

5 THE COURT: That is just your name for it.

6 THE WITNESS: Yes, sir.

7 THE COURT: What is Pentron?

8 THE WITNESS: It is a stock on the American
9 Stock Exchange.

10 THE COURT: What were you accused of there?

11 THE WITNESS: Basically of ghost writing a
12 market letter recommending the stock without revealing
13 I was paid to do so.

14 THE COURT: And you were convicted?

15 THE WITNESS: I pleaded guilty, sir.

16 THE COURT: You pled and you were fined?

17 THE WITNESS: Yes, sir.

18 THE COURT: Anything else that you haven't told
19 us about this morning?

20 THE WITNESS: Right after the Pentron indictment
21 was handed down I was named in the case called Terminal
22 Hudson, which Judge Tenney dismissed.

23 Q Is that the case known as United States against
24 Blanner?

25 A Yes.

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Jerome Allen-direct

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2 Q 68 Criminal 168.

3 What was the disposition of that?

4 A Judge Tenney dismissed it because of prejudicial
5 delay.

6 Q Then you were indicted in 1973 in what you call
7 the Passbook case, correct?

8 A Yes, sir.

9 Q That is the one you say you pleaded guilty to one
10 count, right?

11 A Yes, sir.

12 Q And you are awaiting sentence?

13 A Yes, sir.

14 Q Then you were indicted in a case called United
15 States against James Feeney, correct?

16 A Yes, sir.

17 Q In 1973, and there you have pleaded guilty to
18 one count?

19 A Before Judge Gurfein, yes.

20 Q Do we also understand that you were indicted in
21 this court in a case called United States against Blocker,
22 the one in which you said there was a nolle prosequi?

23 MR. SORKIN: I can clear this up. It was United
24 States versus Jerome Allen. He calls it the Blocker case.
25 It is 73 Cr. 973. He refers to it by the party or the stock.
I think that is the problem here. I would be happy to

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clear it up if you want me to, your Honor.

MR. GOULD: All right.

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2 Q Are we clear that Mr Stoller was not connected
3 in any of these cases except the one that is on trial
4 here?

5 A Yes, sir.

6 Q In your direct examination, sir, you have made
7 several references to your cooperation with the Government.

8 Did there come a time, sir, when you began to
9 cooperate with the Government?

10 MR. SORKIN: I object, your Honor. I think that
11 is cross-examination and we are going to bring all of that
12 out on cross.

13 THE COURT: I am sure you are, but if I could --
14 your voice dropped. Did there come a time when you cooperated
15 or what?

16 MR. GOULD: When you began to cooperate with
17 the Government. All I want is a yes or no.

18 THE COURT: I will allow that.

19 A Yes, Mr. Gould.

20 Q The answer is yes. Just give us the time when
21 that occurred.

22 A As soon as I came back from Switzerland, around
23 January 15 or 16 of this year.

24 THE COURT: Let's think about that a moment.
25 Didn't you tell us just within the last five minutes that

1 you testified, cooperated in this what you call the passbook
2 case, right?

3
4 THE WITNESS: Yes, sir.

5 THE COURT: You must have started cooperating
6 before last January, didn't you?

7 THE WITNESS: No, sir. The passbook case was
8 adjudicated after I came back from Switzerland. I came
9 back from Switzerland January 15.

10 THE COURT: All right.

11 THE WITNESS: I began --

12 THE COURT: You are telling us you never had any
13 relationship with the prosecution prior to January of this
14 year?

15 THE WITNESS: Relationship in what sense, your
16 Honor? I am not trying to be cute. I don't understand what
17 you mean.

18 THE COURT: That is fair enough.

19 Relationship in the sense that you were furnishing
20 them information, cooperating as --

21 THE WITNESS: I didn't cooperate until I came
22 back in January.

23 THE COURT: You are sure of that?

24 THE WITNESS: Yes, sir.

25 THE COURT: Very good. Forgive me.

1 gab-3

Jerome Allen-direct

2489

2 MR. GOULD: Excuse me just one second.

3 Could we just have a second?

4 THE COURT: Yes.

5 (Pause.)

6 Q Did there come a time, Mr. Allen, when you, shall
7 we say, terminated your cooperation with the Government?

8 A On or about the third week in August of this year,
9 sir, I wrote a letter to my attorney officially stating --

10 Q Just yes or no.

11 A Yes, sir. The second or third week of August of
12 this year.

13 MR. GOULD: I have no further direction examina-
14 tion of this witness.

15 MR. FELDSHUH: I have no direct examination,
16 your Honor.

17 THE COURT: Gentlemen, I believe apropos of our
18 conversation earlier this morning, that we are all agreed that
19 we will ask Mr. Allen to step outside and wait while you
20 bring in a brief witness, Mr. Feldshuh?

21 MR. FELDSHUH: Yes, your Honor.

22 THE COURT: Would you do that, Mr. Allen? I am
23 told it won't be too long.

24 (Witness temporarily excused.)

25 MR. FELDSHUH: Will you call in Mr. Willard LaMorte,
please.

WILLARD J. LAMORTE, called as a witness
by the defendant, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. FELDSHUH:

Q Mr. LaMorte, di you know or do you know a Mr.
Jerome Allen?

A Yes, sir.

Q Did you know Mr. Jerome Allen in 1969?

A Yes, sir.

Q Do you know of an issue of stock in 1969 known
as Training With the Pros?

A Yes, sir.

Q Did you have occasion to purchase any of that stock
in 1969?

A Yes, sir.

Q In connection with your purchase of that stock,
did you have any talk with Mr. Jerome Allen?

A Yes, sir.

Q Will you tell us when and where that talk took
place?

A I am not too sure just when. It should have been
around early 1969.

Q Will you tell us where, sir?

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LaMorte-direct

1 gab-5
2 A I am trying to remember. This is about five or
3 six years ago.

4 It was probably in my office.

5 Q Where was your office, sir?

6 A I had two offices, one in the Bronx at 600
7 West 132nd Street, and I had another office at 118 East
8 60th Street.

9 Q Sir, with respect to this conversation, what did
10 Mr. Allen say to you and what did you say to Mr. Allen?
11 Was anyone else present?

12 THE COURT: Please, we are left with a dangling
13 bit of confusion if I may say so. You say probably in your
14 office, then you tell us you have two offices. Would you
15 help us out with the obvious point. Which office?

16 THE WITNESS: I would think it would be 118
17 East 60th Street, sir.

18 THE COURT: All right.

19 MR. FELDSHUH: Thank you, sir.

20 THE COURT: Go ahead.

21 Q Tell us what Mr. Allen said to you and what you
22 said to Mr. Allen in connection with the proceeds?

23 A Mr. Allen advised me that there was a new issue
24 that was coming out and that he wanted me to purchase a
25 thousand shares for him and that if I did that, why, he would

gab-6

LaMorte-direct

1 see that if the issue did come out, that I would get 200
2 shares for myself to do with what I believed and that with
3 the thousand shares to be purchased for him, that I would
4 get a one -- a dollar to a dollar and a half per share profit
5 on it assuming everything works satisfactory in the new
6 market issues.
7

8 Q Thereupon did you seek to get the thousand shares?

9 A Yes. I received indications from the company,
10 I believe. There was two indications, one for a thousand
11 and one for two hundred shares which I filled in and returned
12 to the company with checks.

13 Q So that they were your indication letters, is
14 that right?

15 A Yes, sir.

16 Q What did you pay for the shares, sir?

17 A \$7 a share.

18 Q That was the issue price of those shares, is
19 that right?

20 A Yes, sir.

21 Q All right. Did there come a time after you ob-
22 tained the shares or an indication that you did have an
23 allotment of those shares that you had a talk with Mr.
24 Allen with respect to them?

25 MR. SORKIN: Your Honor, I am sorry. I don't

1 quite understand the question.

2 THE COURT: Believe me, I don't either.

3 Rephrase that so we can follow you, Mr. Feldshuh.

4 Q Did you after, subsequently, have any talk with
5 Mr. Allen with respect to the shares that you were allocated?
6

7 A Well, I believe I received the shares from the
8 company I believe and very shortly thereafter Mr. Allen
9 spoke to me about buying them from me.

10 We did discuss it and arrange for the sale to
11 be -- the sale to take place.

12 Q Sir, with regard to the purchase of those shares,
13 whose money did you use?

14 A I used the Willard J. LaMorte partnership money
15 for the thousand shares and I used a Willard J. LaMorte
16 agent account, which is a partnership also, for the 200 shares.

17 Q Mr. Allen had no interest either in the Willard
18 J. LaMorte partnership or the Willard J. LaMorte agent?

19 A No, sir.

20 Q Those are exclusively either your funds or funds
21 over which you had control?

22 A Yes, sir.

23 Q Is that right?

24 A Yes, sir.

25 Q Mr. Allen had nothing to do with those funds?

gab8

LaMorte-direct

1

2

A That is correct.

3

Q Is that right?

4

A That's correct.

5

6

Q Sir, did there come a time when Mr. Allen asked you to sign any documents in connection with the purchase of those shares by him?

7

8

A Yes.

9

Q When was that, sir?

10

11

A I believe it was after the time or around the time that the thousand shares were purchased by him.

12

13

Q Could you give us your best estimate of the time, something more than around? When would that be, sir? Give us your best recollection.

14

15

16

A Well, it would be probably the -- the end of February or maybe early March.

17

Q 1969?

18

A 1969.

19

20

21

22

Q All right. I show you, sir, Defendant Frank Exhibit P in evidence and I ask you to look at this and I ask you, sir, having looked at it, was that the kind of document that Mr. Allen asked you to sign?

23

MR. SORKIN: Objection, your Honor.

24

25

Is that the kind of document? I think that is the Striziver or Arden document.

1

MR. FELDSHUH: It is all right.

2

3

THE COURT: I don't know quite what we are up to.

4

5

MR. FELDSHUH: I will withdraw that.

6

7

Q Did Mr. Allen at a point in time give you a document and ask you to sign it?

8

9

A Sir, here again I am a little hazy on the -- on how it came about, but the -- the gist of it was that --

10

11

MR. SORKIN: Objection as to the gist.

12

13

THE COURT: The question is simply, Mr. LaMorte, did there come a time when Allen asked you to sign some document in connection with Training with the Pros either purchase or resale or anything else?

14

15

THE WITNESS: Yes, sir.

16

17

Q When he gave you that document, did you sign it?

18

A Yes, sir.

19

Q Upon the occasion of your signing it, what did you do after that? Did you give it back to Mr. Allen?

20

21

A It is a little more difficult than just to give you a straight answer on it.

22

23

Q Give us your best recollection of what you did.

24

A Well --

25

MR. SORKIN: Your Honor, may we have a date?

1 THE COURT: One thing at a time, please.

2 MR. SORKIN: I am losing the witness. I am
3 sorry.

4 A Well, Mr. Allen asked me to -- he told me that
5 we have to prove that he owns the stock that he bought from
6 me and he needed something that either had to be notarized
7 by signature guaranteed by a bank and that apparently the
8 first document didn't include that --

9 MR. SORKIN: Objection, your Honor. Apparently
10 what first document?

11 MR. FELDSHUH: Just a minute. I will straighten
12 that out.

13 Q You mentioned now, Mr. LaMorte, first document.

14 A Yes, sir.

15 Q What is the first document to which you are
16 referring?

17 A It was something similar except that it didn't have
18 a signature guarantee --

19 MR. SORKIN: Your Honor, I object. I think
20 this should be stricken. I don't think it is responsive to
21 any questions. I quite frankly don't know what he is talking
22 about.

23 Q Let's see if we can straighten this out.

24 THE COURT: I am not going to strike it. I
25

1 think this better be clarified.

2 Mr. Witness, you listen to me very carefully.

3 You have stated that you had some occasion to talk
4 to this man Allen about a repurchase, isn't that substantially
5 correct?
6

7 THE WITNESS: Yes, sir.

8 THE COURT: When did that come, in late February
9 or early March?

10 THE WITNESS: Well, that came before the stock
11 was even issued, sir.

12 THE COURT: All right.

13 You have told us that you bought a thousand
14 shares at 7 points, right?

15 THE WITNESS: Yes.

16 THE COURT: Now there came a time when apparently,
17 and you correct me if I am wrong, that Allen bought back the
18 stock from you?

19 THE WITNESS: Yes, sir.

20 THE COURT: Or at least a thousand shares, or
21 was it 800 shares?

22 THE WITNESS: It was a thousand, sir.

23 THE COURT: All right.

24 Did you have a conversation with him at that time
25 of what I will call the repurchase?

gab-12

LaMorte-direct

1 gab-12
2 A Yes. He said he wanted to buy the stock and he
3 was ready --

4 THE COURT: At what price?

5 THE WITNESS: At somewhere around a dollar to a
6 dollar and a half. Now, I have the actual figures, sir.

7 THE COURT: Do you have any paper work having to
8 do with this at all?

9 THE WITNESS: Yes, sir.

10 THE COURT: You do?

11 THE WITNESS: Yes, sir.

12 THE COURT: With you?

13 THE WITNESS: Yes, sir.

14 Q Do you have it with you right here in the
15 courtroom?

16 A Yes, sir.

17 , May I see it, please?

18 MR. SORKIN: We will concede he sold it to Allen
19 at 8-1/4, the thousand shares. I would like to get to when
20 this so-called document was signed.

21 THE COURT: In due time, my dear Mr. Sorkin, in due
22 time.

23 Q Mr. LaMorte, you have now produced some papers
24 and I ask you, sir, will you tell us generically what these
25 are?

1 gab-13 LaMorte-direct 2499
2 A Well, the check is a check for the partnership
3 which paid for the 7000 shares -- I mean the thousand shares
4 at \$7 or \$7000.

5 Q This check being for \$7000?

6 A Yes, sir.

7 Q Okay.

8 The next paper is merely a Xerox of the same
9 check.

10 A It is a copy of that check, front and back, sir.

11 Q Okay. This series of papers, tell us generically
12 what they are, consisting of --

13 A Well, there is about four pages here of the
14 Willard J. LaMorte partnership papers which came from the
15 tax return which lists all the trading.

16 Q Is there a reference in here as to Training With
17 the Pros?

18 A Yes, sir.

19 Q Would you look at them, please?

20 A Yes, sir.

21 Q Does that refresh your recollection as to what you
22 paid for the stock and what you received for the stock?

23 A Yes, sir.

24 Q All right. Will you tell us, sir, what you
25 received for the stock?

gab-14

LaMorte-direct

2500

A \$8059.08.

Q And you paid seven thousand, so you made a \$1059.08?

A Yes, sir, \$1059.28.

Q \$1059.28.

With regard to that, was that a purchase by Mr. Allen from you?

A Yes, sir.

Q All right. Upon the occasion or shortly after that purchase, did you have a talk with Mr. Allen with regard to any documentation that Mr. Allen needed?

A Yes, sir.

Q I see. Tell his Honor and the jury what Mr. Allen said to you and what you said to him.

MR. SORKIN: May we have where and if anyone else was present?

Q And where, please, and who was present.

MR. SORKIN: Thank you.

A Mr. Allen spoke to me about needing proof of ownership, that he needed proof of ownership of the stock certificate since it was in my name and asked me to give him the equivalent of a bill of sale.

He said that he had prepared a document which

1 would indicate that he is now the owner and asked me to
2 please sign it.
3

4 Q All right.

5 A Which I did.

6 Q You did sign it?

7 A Yes, sir.

8 Q When you signed it at that time, Mr. LaMorte,
9 did you give the document back to Mr. Allen?

10 A Yes, sir.

11 Q After you gave that document back to Mr. Allen,
12 did you ever see that document again, that particular docu-
13 ment?

14 A No, but there was another one that came.

15 Q All right. We will get to that.

16 A Allright.

17 Q Now, sir, you have testified that there was another
18 document that you signed.

19 A Yes, sir.

20 Q Did you have a conversation with Mr. Allen about
21 the other document?

22 A Yes, sir.

23 Q When and where did that take place and who was
24 present?

25 A Well, it took place I believe another couple of

gab-16

LaMorte-direct

weeks after -- after this transaction took place where he bought -- where I signed the other document. That is when he told me it had been --

Q All right.

Give us the conversation that you had with Mr. Allen at that time. Tell us where and who was present.

A Well, the conversation -- the conversation was that the other document wasn't notarized or the signature guaranteed --

Q You say "the other document." Are you describing the document you had already signed and given back to Mr. Allen?

A Yes, sir.

Q That is what you mean by the other document?

A Yes, sort of a bill of sale.

Q All right.

A It wasn't guaranteed by a bank officer nor my signature was not notarized. Therefore, I had to sign another document, and would I please stop by Feldshuh & Frank's office and Mr. Frank had some blank documents there for me to sign.

Q I see.

MR. FELDSHUH: May I have Government Exhibit 23, please.

gab-17

LaMorte-direct

(Pause.)

Q Sir, after this conversation did you go to Mr. Frank's office?

A Yes, sir.

Q Did you see Mr. Frank?

A Yes, sir.

Q All right. Will you tell us what happened on that occasion?

A I went to Mr. Frank's office and told him about the conversation with Mr. Allen and he said, "Yes, I have the forms," and he gave them to me.

Q I show you Government Exhibit 23 in evidence and I ask you, sir, is this a copy of the form that he gave you?

A Yes, sir.

Q A Xerox copy?

A Yes, sir.

Q Do you recognize your handwriting on that form, sir?

A Yes.

Q I ask you, sir, with respect to this form, is all the handwriting above the line in your handwriting?

A Yes, sir. I filled it in completely.

Q In other words, Mr. Frank gave you a blank form, you filled in the words Jerome Allen, February 20, 1969,

1 gab-18 LaMorte-direct
2 and you wrote your signature, Willard J. LaMorte? All
3 of that is in your handwriting?
4 A That is correct.
5 Q You did that in the presence of Mr. Frank?
6 A That is correct, sir.
7 Q Did you see Mr. Frank then put his signature and
8 notarial stamp on this form?
9 A Yes, sir.
10 Q You saw him do it right at that time?
11 A Yes. He had it right -- read it right there.
12 Q Then what did you do with the form, if anything?
13 A I left it there and walked -- was finished and
14 I left.
15 MR. FELDSHUH: I have no further questions.

End 3

xx

1 jge 1 LaMorte - cross 2505

2 CROSS EXAMINATION

3 BY MR. SORKIN:

4 Q Mr. LaMorte, you have had your signature notarized
5 before, haven't you?

6 A Yes, sir.

7 Q You have sworn to documents and had the notary
8 on it?

9 A Yes, sir.

10 Q Have you ever sworn to a document, Mr. LaMorte,
11 where the notary didn't put a date on it?

12 A I have never noticed it before, sir.

13 Q But you noticed now that there is no date?

14 A Where his name is.

15 Q Is there any date on this document where you can
16 tell us specifically when you signed it? The date?

17 A No, it just shows February 20, sir, 1969.

18 Q It shows February 20, as the date you supposedly
19 sold the shares?

20 A Correct.

21 Q But there is no date on this to indicate when you
22 signed this?

23 A No, sir, there isn't.

24 Q Mr. LaMorte, you also bought some more stock,
25 didn't you?

1 jpe 2 LaMorte - cross 2506
2 A Yes, sir.
3 Q For your wife?
4 A Yes, sir.
5 Q What name does your wife use?
6 A We bought more stock for my wife and some for
7 another account also, sir.
8 Q Van Leland?
9 A No.
10 Q Tell us how much stock you bought of Training
11 With the Pros?
12 A 1,000 shares on behalf of Jerry.
13 Q You mean on behalf of yourself?
14 A Yes, sir.
15 Q Go ahead?
16 A 200 shares in my wife's name.
17 Q What name is that?
18 A Minion S. Sisson.
19 Q Your wife's maiden name?
20 A That's correct, sir.
21 Q Go ahead.
22 A Another 100 shares in the Willard J. LaMorte
23 partnership which was the same one that bought it for Mr.
24 Allen.
25 Q Whose funds did your wife use?

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A The Willard J. LaMorte Agent Account.

Q And the other 100 shares?

A It was in the partnership account.

Q So you bought 1100 shares from the partnership account and 200 from the Willard J. LaMorte Agent Account?

A Yes, sir.

Q How long have you known Mr. Frank?

A I would think about seven or eight years, sir.

Q From today's date back?

A Yes, sir.

Q Mr. Frank represented you on occasions as your attorney?

A Not too frequently, sir.

Q I am not asking how frequently. I am asking you has he ever represented you.

A Only when Mr. Feldshuh was not available.

Q So the firm has represented you?

A Yes, sir.

Q Do you owe the firm any money now?

A Yes, sir.

Q How much?

A I think it is probably about five or \$6,000, sir.

Q How long have you owed the firm five or \$6,000?

jpe 4

LaMorte - cross

2508

MR. FELDSHUH: Objection. I don't see the relevance of that. If he owes us, he owes us.

THE COURT: I will allow an approximate time as best you can recall.

THE WITNESS: It is on a declining balance. I send the firm \$500 a month. As of now I owe them five or \$6,000. Maybe a year ago it was \$6,000 more.

THE COURT: About how long has this balance been in effect?

THE WITNESS: About three or four years, sir.

MR. SORKIN: No further questions.

REDIRECT EXAMINATION

BY MR. FELDSHUH:

Q You testified as to a purchase of 100 shares?

A Yes, sir.

Q When did you purchase that?

A That was, I believe in March of '69, sir.

Q Did you put that in the open market, sir?

A Yes, sir.

Q What did you pay for those 100 shares?

A I can tell you accurately. \$5,644.60 and it was purchased on March 28, 1969.

Q That would be \$56 a share?

A Yes, sir.

1 jge 5 LaMorte - redirect 2509
2 Q And in due course you sold those shares?
3 A Yes, sir.
4 MR. FELDSHUH: No further questions.
5 MR. SORKIN: No further questions, your Honor.
6 THE COURT: Thank you, Mr. LaMorte, you may be
7 excused.
8 (Witness excused.)
9 MR. SORKIN: May I ask the Court's indulgence?
10 I left a pad down in my office and I would like to run down
11 and get it before he begins his cross. I am sorry.
12 I need it before I begin the cross. I don't
13 know if Mr. Doonan knows where it is. I will just take a
14 moment, your Honor.
15 THE COURT: We won't argue with you. We will take
16 the morning recess at this point, ladies and gentlemen, ten
17 minutes.
18 (Jury leaves the courtroom.)
19 (Recess.)
20
21
22
23
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25

1 gawe 1 Jerome Allen - cross 2510

2 (In open court, jury present.)

xx 3 J E R O M E A L L E N, resumed.

4 MR. SORKIN: May I proceed, your Honor?

5 THE COURT: Please do.

xx 6 CROSS EXAMINATION

7 BY MR. SORKIN:

8 Q Mr. Allen, I think you testified that you were
9 convicted in 1968 in a case United States versus Blauner, the
10 stock was Pentron, is that correct?

11 A Blauner was terminal Hudson.

12 Q What was the other case?

13 A I called it the Pentron case, Mr. Sorkin.

14 Q All right.

15 In substance, Mr. Allen, you were accused of
16 taking a pay-off to write a market letter, isn't that so?

17 A A letter was never published.

18 Q I didn't ask you that?

19 A Yes, sir.

20 Q And you pleaded guilty to taking the pay off?

21 A Yes, sir.

22 Q That was 1968.

23 A Yes, sir.

24 Q In 1973 in what you call the Passbook case you
25 were indicted again?

1 gawe

Jerome Allen-cross 2511

2 A Yes, sir.

3 Q And you pleaded guilty to that?

4 A Yes, sir.

5 Q And Mr. Feeney was a defendant in that case?

6 A Yes, sir.

7 Q And Mr. Arthur Berardelli?

8 A Yes, sir.

9 Q And you testified for the Government in that case?

10 A Yes, sir.

11 Q And you told the truth?

12 A Yes, sir.

13 Q When did you testify for the Government in that
14 case and tell the truth? What was the date?

15 MR. GOULD: I object to that, your Honor. I don't
16 see that that is proper cross examination. We are not going to
17 try that case here.

18 MR. SORKIN: I just want the date, your Honor,
19 when he testified.

20 THE COURT: I will allow getting the date.

21 MR. GOULD: If it is limited to the date, I have
22 no objection.

23 Q Tell us the date that you testified under oath and
24 told the truth?

25 A I don't remember the exact date, Mr. Sorkin. It

1 gawe

Jerome Allen-cross

2512

2 was after I returned from Switzerland, I think three or
3 four months after, but I can't swear to the date.

4 Q So you returned January 15, and you testified
5 in June --

6 A Honest to God, I don't remember the exact date.
7 I did testify as you say, yes, sir.

8 Q And you told the truth?

9 A Yes, sir.

10 Q And you were cooperating with the Government?

11 A Yes, sir.

12 Q And you were telling the truth to the Government?

13 A With that office, yes, sir.

14 Q With Mr. Eberhart's office?

15 A Yes, sir.

16 Q I see.

17 But you were lying to this office?

18 A I was saying what you wanted me to say.

19 Q All right.

20 You were saying what this office, me and Mr.
21 Doonan wanted you to say, is that correct?

22 A The way you restructured facts.

23 Q That's --

24 MR. GOULD: If your Honor please, I think this is
25 degenerating into a little debate. I don't even get a chance

1 gawe Jerome Allen-cross 2513

2 to hear what the witness says before Mr. Sorkin is back at
3 him in a vice --

4 THE COURT: I seem to recall this phenomenon in
5 the past, other circumstances.

6 MR. GOULD: Except I am so much gentler and
7 less vigorous than Mr. Sorkin.

8 THE COURT: I will say this, however, in agree-
9 ment with you, that I would ask first, Mr. Sorkin, for you
10 to finish your question and then you, Mr. Allen, you finish
11 your answer and please answer only what you are asked. The
12 system works better that way.

13 MR. SORKIN: Yes, your Honor.

14 Q You testified on direct that you began --

15 MR. GOULD: Excuse me. I didn't hear the answer
16 to the last question. I heard the --

17 MR. SORKIN: I will ask the question again.

18 MR. GOULD: I would rather hear it from the
19 reporter.

20 THE COURT: I will read it.

21 MR. SORKIN: Please read back the question and
22 anser, Mr. Reporter.

23 (Question and answer read.)

24 MR. GOULD: I could object to the grammer, but I
25 won't.

1 gawe

Jerome Allen-cross

2514

2 THE COURT: You are going to what?

3 MR. GOULD: I could object to the grammer, but I
4 won't.

5 Q In other words, Mr. Allen, it is your testimony
6 that you were cooperating and telling the truth to Mr.
7 Eberhart of the office across the street and Mr. Doonan
8 and myself and other representatives of this office were
9 structuring testimony and therefore you were lying, is that
10 so?

11 A I reflected what you wanted me to say.

12 Q No, Mr. Allen. Yes or no.

13 A I lied on your behalf.

14 Q We were telling you what to say?

15 A Yes, you did.

16 Q Mr. Allen, you were represented by an attorney,
17 Mr. Bregman, weren't you?

18 A Yes, sir.

19 Q When did you first tell Mr. Bregman after January
20 15 that this office was telling you what to say?

21 MR. GOULD: I object to that, I don't think it was
22 the office.

23 Q Mr. Doonan, Mr. Sorkin and any representative from
24 this office. Go ahead, Mr. Allen.

25 MR. GOULD: That is better.

gawe

Jerome Allen-cross

2515

A My complaints to Mr. Bregman intensified after I came back.

Q I didn't ask you whether they intensified.

When did you first tell Mr. Bregman that Mr. Doonan and myself were structuring your testimony.

A I was afraid to tell him --

Q No, Mr. Allen.

A You were making threat. You threatened to name my wife in a case --

MR. SORKIN: Your Honor, I ask the witness --

MR. GOULD: I can't hear what the witness is saying.

MR. SORKIN: Just to say yes or no.

MR. GOULD: Your Honor --

MR. SORKIN: Mr. Gould, please.

MR. GOULD: Don't pull that on me. I have the same right to hear what this man says as Mr. Sorkin and he can't threaten me.

MR. SORKIN: I am not threatening. Mr. Gould, I simply said --

MR. GOULD: I don't want to be interrupted by this man. I want to hear what this witness said. I don't want it drowned out by these leonine shouts from this man.

Q I will ask again. When did you first --

1 gawe

Jerome Allen- cross

2516

2 THE COURT: Just a moment, please.

3 All right, gentlemen. I am going to say a word
4 to each and every one of you and I don't want to have to
5 repeat it, and this includes you, Mr. Witness.

6 First of all, Mr. Sorkin, you ask your question,
7 let him answer and if he gives irresponsible or non-respon-
8 sive answers, I assure you I will be more than alert to correct
9 him.

10 MR. SORKIN: Very well, your Honor.

11 THE COURT: Second of all, however, Mr. Gould is
12 right, he is entitled to hear what the witness says. So
13 don't jump back when he shows signs or Mr. Feldshuh shows
14 signs that they want to hear. They are entitled to that.

15 MR. SORKIN: Very well, your Honor.

16 THE COURT: And last of all, Mr. Witness, I want
17 you to answer the questions directly and I don't want any edi-
18 torial comments from you. If you do it again, you will hear
19 from me again in no uncertain terms.

20 THE WITNESS: Yes, your Honor.

21 THE COURT: You understand the English language.
22 You told us that you were a graduate of college, you have
23 a masters degree. Yo u use those educational years or I am
24 going to deal with you most forcefully.

25 THE WITNESS: Yes, your Honor.

1 gawe Jerome Allen - cross 2517

2 THE COURT: Mr. Sorkin, I want you to control
3 your temper and I want you, Mr. Gould, to keep in mind that
4 I hear very well and I don't need to have any raised
5 voice from you.

6 MR. GOULD: I didn't mean to raise my voice. I
7 did not hear the witness' answer.

8 THE COURT: I had supported you, sir. I am simply
9 saying, you don't have to raise your voice any further.

10 MR. GOULD: I will not.

11 THE COURT: All right. I accept that.

12 MR. GOULD: Thank you.

13 THE COURT: Are we all on firm ground, gentlemen?
14 And I mean gentlemen, all three of you.

15 MR. GOULD: I did not hear one word that the
16 witness uttered in response to the last question.

17 THE COURT: You are entitled to have that read
18 back, Mr. Gould.

19 MR. GOULD: Thank you, sir.

20 (Answer read.)

21 THE COURT: Just a moment, gentlemen. I am going
22 to strike that answer on my own motion because I regard it
23 as totally unresponsive.

24 Do you understand, Mr. Allen?

25 THE WITNESS: It is the truth, your Honor.

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Jerome Allen - cross

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THE COURT: I don't care whether it is the truth or not. It has nothing to do with what he asked you. I know you don't like Mr. Sorkin, but you don't have to keep telling us that. We all understand that already.

Now, you keep in mind what I am saying. I'm not trying to criticize you just for the fun of it.

A I understand.

THE COURT: We are trying to run a civilized trial here.

THE WITNESS: I'm sorry.

THE COURT: Your duty is to answer questions no matter what your feelings are and no matter how legitimate they may be.

THE WITNESS: Yes, sir.

THE COURT: You follow me on that.

THE WITNESS: Yes, your Honor.

THE COURT: All right.

THE WITNESS: Mr. Sorkin, in answer to your question --

Q Let me ask the question again, Mr. Allen.

When did you first tell Mr. Bregman after January 15, 1974 that Mr. Doonan and I were structuring your testimony?

A At the time that you asked me to make tapes. I would say about mid-February.

1 gab-1 Jerome Allen-cross 2519
2 Q At the time we asked you to make tapes in
3 mid-February?

4 A About mid-February, Mr. Sorkin.

5 Q Before or after the indictment?

6 A You asked me to make the tapes a little before
7 the indictment.

8 Q Before the indictment came down.

9 Do you know if Mr. Bregman reported that to his
10 attorney's office?

11 A I have no way of knowing that, sir.

12 Q Now, you did testify though on direct that you
13 continued your cooperation until the second or third week
14 of August?

15 A Under duress, yes.

16 Q Just yes or no.

17 A Yes.

18 Q So we have then that from mid-February to March,
19 April, to May, to June, to July, to the second or third week
20 of August you were afraid to report the threats emanating
21 from Mr. Doonan and myself, is that it?

22 A Yes, because --

23 Q Just yes or no, Mr. Allen.

24 THE WITNESS: Your Honor, can every question be
25 answered yes or no, your Honor?

gab-2

Jerome Allen-cross

1 THE COURT: That certainly seems to me susceptible
2 of a yes or no answer. When it is susceptible of that,
3 that is what you should give.
4

5 THE WITNESS: Yes.

6 Q Did you tell anyone else other than Mr. Bregman?

7 A That I was being threatened?

8 Q Away from the threats, that we were structuring
9 your testimony.

10 A Yes, I did.

11 Q Who did you tell?

12 A Family and friends.

13 Q Family and friends.

14 Tell us the family and tell us the friends.

15 I I told my wife that your office was continuing
16 the behavior that started last August of '73, the behavior
17 that prompted me to write letters to two Judges last October.

18 Q Go ahead. Letters to two Judges.

19 A And to the American Civil Liberties Union.

20 Q Go ahead.

21 A I said, "Janice, I am really caught in an awful
22 dilemma. If I fight Mr. Sorkin, he has threatened" --

23 Q Just tell us who you spoke to.

24 A I am sorry.

25 MR. GOULD: Aside from the fact that I can't

1 hear, I think if he is asked for this kind of answer, he
2 should be permitted to conclude it. I have my doubts
3 as to his responses.
4

5 MR. SORKIN: I didn't ask for the conversation
6 respectfully, your Honor.

7 THE COURT: Let's get back, gentlemen.

8 This lawyer, Mr. Allen, doesn't want all the
9 conversations you had with Mrs. Allen and the boys and all your
10 friends. Apparently what he wants, and you correct me if
11 I am wrong, Mr. Sorkin, is the timing of when you communicated
12 with these Judges and your wife and so on.

13 THE WITNESS: The letters to the Judges, Mr.
14 Sorkin, were sent last October of '73, and then when I came
15 back from Switzerland I complained to my wife and friends.

16 Q What friends and relatives after you spoke to
17 Mr. Bregman? That was the question.

18 A My former wife, my sons, my father and various
19 acquaintances, but none of them are here. So it doesn't
20 really mean much.

21 Q Why don't you tell us the various acquaintances
22 that you mentioned it to?

23 A Who did I mention it to?

24 Q Yes.

25 A I mentioned to people I knew in Canada.

1 gab-3

Jerome Allen-cross

2 Q Such as?

3 A I mentioned it to my lawyer in Geneva, Mr.
4 Wyler, the man who negotiated my return with you.

5 Q Anyone else?

6 A In Switzerland?

7 Q No, any friends or relatives, acquaintances. I
8 am using your terms, acquaintances. You tell me the
9 acquaintances that you mentioned this to.

10 A I told Mr. Herbert --

11 Q Fred Herbert. Anyone else?

12 MR. GOULD: He is not finished. Your Honor, I
13 must protest. I don't hear this witness. Mr. Sorkin breaks
14 in on him continually. I am really trying to take some
15 notes to do my own job.

16 THE COURT: Part of the problem may be that even
17 though I am in a more favored position than you are, since
18 I am only four feet from the witness, I don't hear him too well
19 either which is natural. He is trying to answer. It is some-
20 times hard to remember to keep your voice up.

21 THE WITNESS: I will speak louder. I am sorry,
22 your Honor.

23 THE COURT: That's all right.

24 MR. GOULD: I think with all respect --

25 THE COURT: If you want it read back, Mr. Gould,

1 gab-4

Jerome Allen-cross

2 by this time we all know you can get it read back.

3 MR. GOULD: I don't care about it being read
4 back. I just want counsel to wait for him to answer before
5 he --

6 THE COURT: Mr. Gould, I have agreed with you
7 now twice in the last five minutes. I don't know what else
8 I can do.

9 Q The question is, Mr. Allen, I am not interested
10 in what you said to these acquaintances, I just want to know
11 who you told.

12 You said your wife, your sons, your father. Mr.
13 Wyler, Mr. Bregman and Fred Herbert. Just who you spoke to,
14 not what was said. Do you understand that?

15 A Yes.

16 Q All right. Tell me who else you spoke to.

17 A Later I told Mr. Stoller that I was being pressured
18 enormously.

19 Q Anyone else?

20 A That is all I could recall at present. There
21 may have been others.

22 Q Okay. Mr. Stoller, Mr. Herbert, your lawyer in
23 Switzerland, your lawyer here, your wife, your sons and
24 your father.

25 Anyone else?

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A My daughter-in-law.

Q And your daughter-in-law. Anyone else?

A Not that I can recall.

Q Now, you said you wrote letters back from Switzerland, is that correct?

A Yes, Mr. Sorkin.

Q All right. Why don't you tell us who you wrote to.

MR. GOULD: I object to that.

THE COURT: I sustain that. I don't think you intend to ask that question. Rephrase it.

MR. GOULD: Show him the letter.

MR. SORKIN: Sure.

Q How many letters did you write from Switzerland?

A Letters you mean to Judges or to others? I don't understand your question.

Q Let me rephrase the question. You say you wrote letter sfrom Switzerland accusing Mr. Doonan and myself of misconduct.

A Yes, sir.

Q How many did you write?

A To the best of my recollection, I wrote one to Judge Gurfein, one or possibly two to Judge Carter, one to the American Civil Liberties Union and one to my

1 attorney at the time, Mr. Frank.

2
3 MR. SORKIN: May we have these marked, please,
4 39.

xxx 5 (Government Exhibit 39 was marked for
6 identification.)

7 MR. SORKIN: 40.

xxx 8 (Government Exhibit 40 was marked for identi-
9 fication.)

10 MR. SORKIN: 38.

xxx 11 (Government Exhibit 38 was marked for identi-
12 fication.)

13 MR. SORKIN: And 37.

xxx 14 (Government Exhibit 37 was marked for
15 identification.)

16 Q Mr. Allen, let me show you Government Exhibits
17 37, 38, 39 and 40.

18 MR. GOULD: For identification.

19 MR. SORKIN: For identification.

20 A There is one letter here, Mr. Sorkin, that I
21 didn't answer to, and that is the letter to Mr. Bork.

22 Q You wrote a letter to Mr. Bork, too?

23 A Yes.

24 Q Four letters?

25 A I said there may have been additional ones. This

1 gab-7

Jerome Allen-cross

2 is what I recall.

3 Q And Mr. Bork was the acting Attorney General
4 at the time, is that so?

5 A Yes, and there is the letter to the Mr. Eberhardt,
6 the other prosecutor.

7 Q Are those the letters you wrote?

8 A I don't see the one I wrote to Judge Carter, Mr.
9 Sorkin.

10 Q Why don't you look at the Xerox copy here, which
11 is 38, and see if that is the one to Judge Carter.

12 A I mailed one to Judge Carter and one to Judge
13 Gurfein, Mr. Sorkin.

14 Q You are not sure whether that went to Judge
15 Gurfein or Eberhardt, is that correct?

16 A No, Mr. Sorkin. I don't. I received an answer
17 from Judge Carter. I assumed he received it.

18 Q You wrote these four letters?

19 A Perhaps more.

End 5B 20

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Q Let's take 37 first.

MR. GOULD: Could we see those, Mr. Sorkin?

MR. SORKIN: I am not through with them.

MR. GOULD: I want to know which you are referring to.

(Pause.)

MR. SORKIN: Your Honor, we offer 37 through 40 in evidence.

MR. GOULD: No objection to 37.

THE COURT: You object or you don't object?

MR. GOULD: No objection to 37.

(Government Exhibit 37 was received in evidence.)

MR. FELDSHUH: No objection to 37.

MR. GOULD: I have no objection to 38.

(Government Exhibit 38 was received in evidence.)

MR. FELDSHUH: No objection to 38.

MR. SORKIN: We withdraw 38, your Honor. It is a Xerox of 37.

We offer 37, 39 and 40

THE COURT: You withdraw 38?

MR. FELDSHUH: Yes, your Honor, withdrawing 38.

THE COURT: All right.

1 qb-2
2 MR. GOULD: Could I ask the witness about one
3 word in here which I don't seem to be able to read, your
4 Honor?

5 THE COURT: Yes.

6 VOIR DIRE EXAMINATION

7 BY MR. GOULD:

8 Q What is that word?

9 A Archeological.

10 MR. GOULD: I have no objection to 39, your
11 Honor.

12 MR. FELDSHUH: One second, your Honor.

13 VOIR DIRE EXAMINATION

14 BY MR. FELDSHUH:

15 Q This one word here on the reverse side of Page 1,
16 what is that word?

17 A Orwellian, after George Orwell, the author.

18 MR. GOULD: And I have no objection to 40.

19 MR. FELDSHUH: I have no objection to 39, your
20 Honor.

xxx 21 (Government Exhibit 39 was received in
22 evidence.)

17 23 MR. FELDSHUH: I have no objection to 40, your
24 Honor.

xxx 25 (Government Exhibit 40 received in evidence.)

2 MR. SORKIN: I would like to read these to
3 the jury, your Honor. My only difficulty is that 39 and 37
4 are in Mr. Allen's own handwriting and I have some difficulty
5 reading it.

6 THE COURT: He is here to assist you.

7 MR. SORKIN: I would ask Mr. Allen to read it.
8 Is this the one you sent to Judge Carter, 37?

9 THE WITNESS: That is Mr. Bork.

10 Q When was that sent?

11 A It says received November 2, 1973, so I assume
12 I went it the last week in October from Switzerland.

13 Q Go ahead.

14 A "Dear Sir: At present I am under two indict-
15 ments in the Southern District both of which Ira Sorkin has
16 labeled as being frivolous. I am going to conduct"-- I
17 am sorry, this little thing gets in the way, Mr. Sorkin.
18 "I am going to conduct a press conference here detailing the
19 methods used by some -- Tom Doonan for example -- of your
20 investigators. When I refused without a court order to
21 trap and tape a number of key people, including my own
22 lawyer, Marty Frank, Murray Hill 7-8930, Sorkin named me" --
23 the pages are out of sequence.

24 Q You wrote the letter.

25 A It jumps from here and I can't pick up the pages

1 because of the staple.

2 Q Take the staple off then.

3 Ike?

4 A Mr. Sorkin.

5 Q I thought you said "take the staple off, Ike."

6 A No.

7 MR. FELDSHUH: To whom was this letter addressed?

8 THE WITNESS: Robert Bork, Attorney General, De-
9 partment of Justice, Washington, D. C.

10 "I am not a paragon of virtue. When I refused
11 to tape Roy Cohn for Morgenthau I was actually named, 1963
12 Terminal Hudson, for allegedly receiving \$150 in an indict-
13 ment."
14

15 I made a mistake, I put Judge Tyler dismissed
16 it, and that was Judge Tenney. That was a mistake. "It is
17 almost a Kafka-like nightmare. I cannot go home. Sorkin
18 has even threatenèd to have narcotics planted on me or my
19 apartment if I refuse to work with him. I have only glossed
20 over details. The substance of what I have charged will
21 be proven at my press conference. Among the people Sorkin
22 wanted me to tape was Senator Harrison Williams. I have
23 notified the New York Times about this case and I have
24 written to Senator Williams. Please excuse my violating
25 protocol."

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Q When did you hold your press conference?

3

MR. GOULD: Is that the end of the letter?

4

THE WITNESS: Yes.

5

Q When did you hold your press conference?

6

A I called Newsweek --

7

Q When did you hold your press conference?

8

A I decided not to.

9

Q You decided not to, all right.

10

Mr. Allen, let's go to 39 and again it is in

11

your handwriting. I probably can make it out but why don't you

12

read it?

13

A "Dear Mr. Eberhardt. Contrary to what you may

14

have heard I will be back in sufficient time to face trial,

15

Coatings, etc., or whatever else occurs. I have gone on

16

records, perhaps defying protocol, as to Mr. Sorkin's behavior.

17

While it is understandable that a prosecutor seek the

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help of a defendant there should be reasonable limits on the

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kind of pressure or illegal means utilized to coerce a defend-

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ant, particularly the use of tapes and other entrapment tech-

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niques. If justice is service by Orwellian means we have

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then progressed but a few yards from Plato's cave. I cannot

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fault your behavior" -- this is addressed to Mr. Eberhardt --

24

"I will fight your charge as best I can. It may be

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ironic to note or predict that Mr. Sorkin has the kind of

1 vigilante mentality that will ultimately manifest itself when
2 he turns around his collar and enters private practice
3 attacking the very methods he once had utilized so recklessly.
4 When Foley Square is nothing more than an archeological ruin
5 historians will ask 'what manner of man or men administered
6 justice there,' a philosophical question that I am certain
7 eludes Mr. Sorkin and his colleagues. They are too busy
8 seeking headlines, Jerry Allen."

9
10 Q By the way, when was this sent, Mr. Allen? It
11 has the week day, Wednesday.

12 A I believe in October, Mr. Sorkin.

13 Q When in October?

14 A I arrived in Switzerland mid-October. I would
15 say the end of October, beginning of November, but I don't
16 want to perjure myself as to the exact date.

17 Q I don't want you to perjure yourself.

18 THE COURT: Late October, early November, Mr.
19 Sorkin.

20 Q Why don't you read 26, rather November 26, Govern-
21 ment Exhibit 40.

22 A "Dear Sir: I initially wrote to you from
23 Lausanne, but apparently no one could decipher my handwriting."

24 Q Who is that to?

25 A This letter was sent to the American Civil

Liberties Union.

Q Go ahead.

A "I am under two indictments, both in a sense are interrelated. Southern District -- Ike Sorkin is the Assistant Attorney in one case, Mike Eberhardt in the other case. My remarks are directed only towards Mr. Sorkin. There is a sham practiced in Federal Court where a defendant is asked by the Judge as routine "Have you been promised anything or threatened by the U.S. Attorney." In virtually every case the answer is a meek "no, sir." When Mr. Sorkin initially called me down to Foley Square to seek my cooperation in a number of SEC matters he introduced me to a Tom Doonan, an investigator with the SEC. To say that the tactics they used and continue to use are Orwellian is an understatement. Mr. Sorkin asked me to tape my own attorney Marty Frank. He also repeated a demand, as did Doonan, that I set up and tape a number of persons on the Hit Parade, among them Senator Harrison Williams and other prominent people with Wall Street orientations. When I asked if they would secure a court order, they smiled as they replied, 'We don't need court orders, we want results.' When I balked, a series of pressure unfolded."

End 6A24

1 "Telephone calls to my answering service and
2 friends, calls made by both of them, calls made at all
3 hours. At times they left embarrassing messages. At one
4 pont when I adamantly refused to cooperate with them on their
5 level Doonan warned "What would happen if by chance --I
6 put that in quotes -- someone found narcotics in your car,
7 your apartment, what would you do then if we arranged an
8 arrest on the spot?
9

10 "Since my strongest addiction is diet Pepsi, even
11 Sorkin blanched at the suggestion. It is understandable
12 that a Government attorney should seek the cooperation of
13 defendants, but I do not believe that their investigative
14 behavior is above the law. Sorkin warned that I would be
15 named in an SEC indictment even though to quote him, at best
16 it is a spurious case. We are naming you to break you down
17 and will name you over and over again until you tape the
18 people we want.

19 "I am not a paragon of virtue. In 1968 I was
20 indicted for having received \$700 to ghost write a stock
21 market letter that was never published. When I refused to
22 cooperate with the Government they named me in a second case
23 charging me that I had been paid \$150. The second was thrown
24 out of court -- again I am sorry -- by Judge Tyler but it
25 was Judge Tenney. Before the first case was tried the

2 Government asked me to tape Roy Cohn. I refused. Instead I
3 gave Mr. Cohn a sworn affidavit stating that the Government
4 wanted me to trap and tape him. He used the affidavit and
5 subsequently won his case. When I told Mr. Sorkin that I
6 would contact your agency and that I would write directly
7 to the Judge, he stated "If you contact the ACLU I will
8 break you one way or the other."

9 "I am not being poetic or dramatic. I will submit
10 to a lie detector test. I doubt if Mr. Sorkin will. Sorkin
11 also advised me that he had embarrassing information as to
12 my social life that he will leak to my family. He met with
13 me alone at the Waldorf Astoria, again soliciting my assis-
14 tance and asked me for something which I cannot spell out in
15 this letter.

16 "I am in Switzerland and my case is due for trial
17 on December 17. I am frankly terrified that when I return
18 Doonan will live up to his threat of planting some narcotics
19 on my person. This week my former partner, Phil Stoller,
20 was arrested at Kennedy Airport by Sorkin, Doonan and, a
21 marshal upon his return to the States from Switzerland.

22 "He was informed that he was under indictment for
23 allegedly lying at the SEC hearing. It may be interesting to
24 note that Mr. Sorkin forced not only Mr. Stoller but his wife
25 and son to surrender their passports. He asked for \$75,000

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Jerome Allen - cross

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bail which may be a clue as to Sorkin's sense of balance. He refused to permit Mr. Stoller to call his attorney from the airport. By the time they arrived at Foley Square, his attorney had left for Thanksgiving and Mr. Stoller, who has never been indicted or convicted of a crime, was kept for two days in the House of Detention. I am not a vestal virgin, but if the Government can abide with the gestapo tactics of some of their attorneys, then we are still in Plato's cave.

"How much longer will the perjurous sham of a defendant parroting , 'No, sir' when asked if he was threatened be permitted as routine.

"At best I am condensing months of conversation with Sorkin and Doonan. Space limitations preclude a detailed resume. I received a long distance call from their office two weeks ago. Someone, I don't believe it was Sorkin, warned "if you don't come back and turn States evidence, we will see to it that your former wife will lose her job."

"Before I could reply they hung up. Respectfully,
Jerry Allen."

Q We have it, Mr. Allen, that before you went to Switzerland you were threatened with frivolous indictments, is that correct?

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Jerome Allen - cross

2537

A Yes, sir.

Q And this office, Mr. Doonan, and myself, used
gestapo tactics on you, is that correct?

A In my opinion.

Q Yes, in your opinion.

And we wanted you to tape Harrison Williams and
your own attorney, Martin Frank?

A Yes, sir.

Q And we were going to plant narcotics in your
apartment or car, which was it, if you didn't cooperate?

A Yes.

MR. SORKIN: May we have these marked Govern-
ment's Exhibits 41 and 42.

(Government's Exhibits 41 and 42 marked for
identification.)

Q Before we get to you, Mr. Allen, when did you go
to Switzerland?

A On October 11, or 12 of '73, sir.

Q For what purpose?

A A business trip. I had permission from the court
to go.

Q On a business trip.

What was the business?

A Pardon?

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Jerome Allen - cross

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Q What was the business?

A Personal.

Q Tell us what it was, please.

A I was trying to arrange a loan so I could trade in gold and silver -- in silver commodities in the London Exchange.

Q Did you succeed in arranging this loan?

MR. GOULD: I object to that, your Honor. What difference does that make?

THE COURT: I don't really know why we want to get into this.

Q When did you complete your business over there?

MR. GOULD: There is no testimony that he did complete it.

MR. SORKIN: That was the question objected to.

Q Did you succeed in completing your business --

MR. GOULD: I don't think we ought to go into his business.

THE COURT: I thought I made it clear I agree with objecting counsel. If you want to get a time frame, that is something else again, but put a different question.

Q When you went over on the 11th, did you finish what you had gone over for?

MR. GOULD: That is the same thing.

2 Q If so, on what date?

3 THE COURT: Let's strike that.

4 You want to know when he came back, fine.

5 MR. SORKIN: I want to know when he finished his
6 business trip, what he went over for. That is all I want
7 to know.

8 THE COURT: All right, I will allow the date.

9 Q When?

10 A I didn't bring the deal to fruition, no. I was
11 trying -- I won't use the word deal. I was trying to borrow
12 the money from the bank or a group of banks.

13 Q When did the deal fail, what date?

14 A It failed in the sense that I could not finish
15 it because on December 4, you are aware what happened to me
16 there.

17 Q Why don't you tell the jury and the Judge what
18 happened to you there?

19 A I met with Jim Feeney in November --

20 Q What happened on December 4, 19--

21 A You are asking me a question.

22 Q The question was: What happened to you on
23 December 4, 1973? That is the question.

24 MR. GOULD: I don't think it is necessary to bully
25 this man any more. I think he was trying to answer the ques-

tion and he got interrupted. I don't even hear what he says when that happens.

THE COURT: He can't answer with both of you talking, that is for certain. Go ahead, Mr. Allen.

MR. GOULD: I want to hear what he says.

THE COURT: Go ahead.

A I have to answer you, Mr. Sorkin, please.

THE COURT: Go ahead.

A When I met Mr. Feeny in November --

MR. SORKIN: Judge --

A There is a reason for this.

Q I am asking you very simply what happened to you on December 4, 1973?

A I was arrested for overdrawing -- for bouncing a check with a jeweler I had done business with for years because Mr. Feeney called --

Q No --

MR. GOULD: I want to hear the rest of the answer.

THE COURT: You will have your change, Mr. Gould. He apparently wants to ask something else. Start over again and may I suggest to all three of you if we just calm down here we would get a lot farther. I know it is hard and I don't blame anyone of you.

MR. GOULD: I just can't hear when this fellow

bellows in my ear.

THE COURT: Would you like to move up closer, Mr. Gould?

MR. GOULD: I would indeed.

THE COURT: Fine, that may solve part of our problem.

Why don't you join Mr. Feldshuh here.

Mr. Doonan, would you mind moving over just a little?

MR. GOULD: Would you move over a little, please.

A On December 4, I was arrested for bouncing a check and was exonerated.

Q You were arrested for bouncing a check where?

A Switzerland.

Q You were arrested by the Swiss?

A Yes, sir, on a complaint that was dropped.

Q Did you pay the money?

A Yes, sir.

MR. GOULD: If your Honor please, do we have to go into this?

THE COURT: I have agreed with Mr. Gould heretofore. We are not going into this any further. We are not trying another charge here in this case.

Q You were in Swiss jail on December 4, is that

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Jerome Allen - cross

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correct?

A Yes, sir.

Q Now, did you write any other letters back to the United States, Mr. Allen, while you were in jail?

A Yes, I did.

Q Who did you write them to this time?

A To you, to my wife, to my friends, largely at the suggestion of my attorney, Mr. Weiler.

Q Mr. Weiler suggested it?

A He asked that I write you.

Q Why don't you look at those two letters and see if those are the letters you wrote?

A Yes, sir, I wrote these.

Q Did you tell Mr. Weiler, Mr. Allen, when he asked you or suggested to you to write these letters about the threats and the frivolous indictments and the planting of narcotics and the taping of Harrison Williams? Did you tell him that?

A Yes.

Q And he still suggested that you write the letter back?

A Because --

Q Just yes or no.

A He told me --

MR. SORKIN: Your Honor, I ask please for a yes or no.

1
2 THE COURT: I am somewhat in the position of
3 Mr. Gould. I am so deafened by your voice that I have a
4 little trouble in finding out just exactly what you want.

5 I will make it plain to Mr. Allen, if need be,
6 that he only give a yes or no answer, but it is so hard to
7 follow your question when you keep repeating it. Put it again
8 calmly or deliberately and I'm sure we will get it.

9 A I'm sorry, Mr. Sorkin.

10 Q The question to you was, did you tell Mr. Weiler
11 about the frivolous indictments and the threats to plant
12 narcotics?

13 A Yes, I did.

14 Q And all of the other things you put in the letters?

15 A Yes.

16 Q Previously?

17 A Yes.

18 Q All right.

19 And he still suggested that you write those letters

20 A Or face -- because of other pressures from your
21 office -- two years in the Swiss jail.

22 MR. GOULD: Can I hear that answer read.

23 A Or due to pressure being exerted by the State
24 Department through the Embassy in Berne.

25 Q Who in the Embassy in Berne?

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Jerome Allen-cross

2544

2

A Mr. Dick Rand.

3

Q What was Mr. Rand's position?

4

A I don't know precisely. He seemed to be like a counsellor, officer.

6

Q Tell us what Mr. Rand said to you?

7

A Mr. Rand said my case was before a magistrate named Pagan, under Swiss law --

9

Q Mr. Allen, I don't mean to yell. Just tell us what Mr. Rand told you?

10

11

A Mr. Rand said he would exert -- he could exert unofficial pressure on the magistrate to see that I received the optimum sentence, two years on a bad check, that if I had brains I would indicate a desire to come home, waive extradition and cooperate with your office. If I didn't do that, pressures would be exerted to keep me in solitary confinement in Switzerland.

12

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18

Q Now, Mr. Rand is making threats to you, pressures?

19

A I'm sorry --

20

MR. GOULD: This is argument. He just told what Mr. Rand said.

21

22

Q Mr. Allen, let's look at Government's Exhibit -- by the way, when did Mr. Rand tell you this?

23

24

A Almost immediately after I arrived in jail, Mr. Sorkin. I don't know exactly whether it was the first,

25

1 gawe 4

Jerome Allen - cross

2545

2 second or third day.

3 MR. SORKIN: Your Honor, we are going to offer
4 41 and 42 in evidence.

5 MR. GOULD: Can we see them?

6 (Pause.)

7 MR. GOULD: I have no objection to either one.

8 MR. SORKIN: Your Honor, we offer 41 and 42.

9 MR. FELDSHUH: I have no objection to 41.

xx 10 (Government's Exhibit 41 for identification,
11 received in evidence.)

12 A Mr. Sorkin, may --

13 Q Please, just one moment, Mr. Allen.

14 (Pause.)

15 MR. FELDSHUH: No objection to 42, your Honor.

xx 16 (Government's Exhibit 42 for identification,
17 received in evidence.)

18 Q I am going to ask you, Mr. Allen, to please read
19 the letter dated December 4, 1973.

20 That's the one sent to me.

21 MR. FELDSHUH: From where?

22 MR. GOULD: From the jail.

23 A "Dear Ike."--

24 Q When did you begin calling me by my first name?

25 A The moment I met you.

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Jerome Allen-cross

2546

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Q So you called me Ike back before you went to
3 Switzerland?

4

A Yes. Everyone calls you Ike to my knowledge.

5

Q Go ahead.

6

"Dear Ike."

7

A "I have made many foolish mistakes in my life,
8 mainly emotional. I am tired of defying common sense. I
9 must be careful what I write. I have no lawyer here. I am
10 being charged with issuing last year a check to a Geneva
11 jeweler that did not clear, around \$2,000 with interest. I
12 want to work with you 100 per cent. No gambits, no obtuse
13 remarks. Everyone has let me down but your office. The
14 other night I heard Ann Corsaway and part of the Miami,
15 Pittsburgh football game. I am a Navy vet, I'm not a
16 cornball, but I cried. I need to be on the moral side.
17 The life of a busted down boulevardier is a fiction. I miss
18 my wife and children and I want to purge myself of all
19 sophistry. I want to come back but, please, not the kind
20 of reception committee that greeted Phil. You can hold the
21 green book forever. Jerry Allen."

22

Q Let's talk about this letter first, Mr. Allen.

23

A All right.

24

Q You told us just a few minutes ago that you spoke
25 to Mr. Wieler and he told you to write this letter.

2 A No, I said he told me -- he didn't say that
3 specifically.

4 Q He told you to write letters?

5 A Indicating my desire to come home.

6 Q And --

7 A You want me to answer a question when you ask --

8 Q I'm just asking yes or no.

9 A Every question can't be answered yes or no.

10 MR. SORKIN: Your Honor.

11 A I'm sorry, Mr. Sorkin.

12 Q Mr. Weiler told you to write letters, is that so?

13 A Yes, and so did others.

14 Q And so did others.

15 Which others?

16 A The magistrate.

17 Q The magistrate.

18 Now, in the letter here you said, "I must be care-
19 ful what I write, I have no lawyer here."

20 Did you have a lawyer when you wrote this letter
21 or didn't you have a lawyer when you wrote this letter?

22 A No, sir, I didn't. I had spoken to the magistrate.

23 Q So Mr. Weiler didn't tell you to write letters?

24 A Yes.

25 MR. GOULD: I object to that, your Honor.

1 gawe 7 Jerome Allen - cross 2548.

2 A I'm sorry Mr.Sorkin. You are putting words in
3 my mouth.

4 MR. GOULD: If you don't mind, Mr. Allen, I
5 object to the question. It is argumentative and the premise
6 is in conflict with the facts.

7 MR. SORKIN: I'm trying to clear this up, your
8 Honor.

9 THE WITNESS: There's one fact -- I'm sorry, your
10 Honor. I apologize.

11 THE COURT: Gentlemen, I am going to sustain that
12 objection. Rephrase it, Mr. Sorkin. You invite these
13 little difficulties unnecessarily, perhaps.

14 Q What did you mean when you said, "I have no
15 lawyer here?"

16 A When -- I have to give you the chronology, Mr.
17 Sorkin, to explain it. The moment I was arrested I was
18 brought to the jail in Geneva and I appeared before a magis-
19 trate. He translator. They immediately looked at my pass-
20 port and opened my attache case and saw that I had copies of
21 two indictments in it. It didn't take them too long to
22 understand I had been in trouble in the States. They immedi-
23 ately called the U. S. Embassy. At the same time they said
24 they would get me a lawyer or court appointed lawyer. They
25 immediately sent my passport to the embassy and had me call

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Jerome Allen - cross

2549'

the embassy in their presence. It was not Mr. Rand I spoke to, Mr. Sorkin. It was someone else at the embassy. I said, "I have been arrested, I have been under indictment in the States, I am frightened."

He said, "The best thing you can do since you are under indictment is get"--I won't use that language -- your behind out of there" and you better indicate to the Department of Justice that you want to get back or face an extradition fight."

Q Let me ask you this --

A Then I wrote that letter.

Q When did you speak to Mr. Weiler?

A When did I speak to Weiler?

Q Yes.

A I believe he was appointed a few days after that.

Q After you wrote this letter?

A And that letter was written after I spoke to the embassy.

Q But before you spoke to Mr. Weiler?

A Yes, sir.

Q All right.

Why didn't you write to Mr. Eberhart, Mr. Allen?

MR. GOULD: Why didn't he?

1 gawe 9 Jerome Allen - cross 2550

2 Q He was with the Department of Justice. Why to me.

3 A Because you were the one that -- you were the

4 one who was forcing me to cooperate against my will. I

5 knew I was going to testify for Mr. Eberhart. He never did

6 anything improper.

7 Q In other words, you wrote to the person in the

8 United States Attorney's office?

9 A Who was putting pressure on me.

10 Q Who was putting pressure on you, I see.

11 You say in this letter that "everyone has let

12 me down but your office."

13 A Yes.

14 Q That's the United States Attorney's Office for

15 the Southern District of New York in Foley Square, is that

16 so?

17 A Yes.

18 Q Who has let you down, Mr. Allen? Who had let

19 you down at that time?

20 A I wrote that letter, Mr. Sorkin, for the benefit

21 of getting out of jail --

22 Q Please.

23 A You asked me a question. If you don't like what

24 I say --

25 THE COURT: No, no.

1 gawe 10 Jerome Allen - cross 2551'

2 THE WITNESS: I'm sorry, your Honor.

3 THE COURT: The question is good enough. Do you

4 want it read back?

5 A Please, your Honor.

6 (Question read.)

7 Q It wasn't --

8 THE COURT: The question is clear enough. He

9 understands that.

10 A The question was --

11 THE COURT: Who let you down at that time, if

12 anybody?

13 THE WITNESS: Friends of mine in Switzerland.

14 Q Such as?

15 A Otto Staub, Max Uber.

16 Q Who is Otto Staub?

17 A He's a banker.

18 Q And Max Uber?

19 A Yes.

20 Q What bank?

21 A Max --

22 MR. GOULD: Do we have to go into this, your

23 Honor? Isn't this too much collateral?

24 THE COURT: I will allow it.

25 Q What bank?

A He's an old family friend. He's with the North Finance Bank.

Q Mr. Uber was with the North Finance?

A Yes.

Q And Mr. Staub?

A He's with the Marquis Baumere.

Q Marquis Baumere.

A Yes.

Q Anyone else let you down?

A No.

Q How about Mr. Frank?

A He didn't let me down. He had a friend advance me money to help pay my legal fees to get out of jail and get back to the States.

Q How about Mr. Stoller?

A He and Mr. Frank jointly arranged for me to borrow money from a friend of theirs to pay their -- not pay my way out of court, cover the check, pay my lawyer and come back to the States.

Q Did they?

A Yes.

Q When was that?

A Mr. Zucker in Geneva gave 8,000 Swiss francs to my attorney saying Mr. Frank and Mr. Stoller want Mr. Allen

to use this to defray his expenses so he can get home, he's having a grandchild.

Q Mr. Allen, when did Mr. Frank and Mr. Stoller get the money to Mr. Zucker to get you out of jail?

What date?

A It would be about two or three weeks -- as soon as they learned that I was in jail.

Q You mean, to your knowledge, Mr. Frank and Mr. Stoller didn't know that you were in jail until three or two --

A No, sir.

Q Let me finish.

A I wrote Mr. Frank immediately when I was arrested.

Q So Mr. Frank knew you were in jail on December 4?

A Not December 4, I think -- the mail is censored first. I assume he got it nine or ten days later. My attorney had called him, Mr. Sorkin.

Q Mr. Weiler called him.

A Yes.

Q Let's go back to this letter, Government's Exhibit 41.

Let's go to the next words you use. "Everyone let me down but your office."

A December 4 letter?

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Jerome Allen - cross

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Q We are still on the December 4 letter?

A Yes.

Q "But your office?"

A Yes.

Q Are you saying to this Judge and to this jury that the United States Attorney's Office for the Southern District of New York didn't let you down even though Mr. Doonan and Mr. Sorkin had made all these threats to you?

A That --

MR. GOULD: I object to it as to its form.

If he wants to know what he meant, let him ask him what he meant.

THE COURT: I am going to sustain that because of another reason, too. The point has been made. Let's go ahead.

MR. SORKIN: Thank you, your Honor.

Q Let's go to the other side of this document, Mr. Allen.

Where you say "after listening to the Miami-Pittsburgh football game." -- assume that was a Monday night game,

A I had it on Armed Forces Radio.

Q "I am a Navy bet, I'm not a cornball, but I cried. I need to be on the moral side."

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A Yes.

Q What did you mean by that?

A That I wanted to straighten out my life.

Q You wanted to straighten out your life?

A I wanted to tell the truth as I knew it about my activities.

Q Even though prior to your writing this letter you thought this office, Mr. Doonan and myself in particular, were acting in an immoral way?

A I --

MR. GOULD: I object.

A I'm sorry, Mr. Gould.

THE COURT: I overrule the objection.

MR. GOULD: I object to it as being argumentative.

THE COURT: Not in this context. I said I disagree with you most respectfully, and would you do me the courtesy of not coming up here. When you want to object, just object. I will see you. When you come in here and start puzzling over these books in front of us here, I am a little bit thrown off as to what is going on. Let's go ahead.

MR. GOULD: I have nothing to do with the books, your Honor.

2 THE COURT: Of course you don't. I don't mean to
3 accuse you of that. You marched up here. I was trying to
4 hear what the examiner was saying. I don't see any prejudice
5 to you.

6 MR. GOULD: I would be glad to get back where I
7 belong.

8 THE COURT: No, no.

9 MR. GOULD: I think we are better off that way.

10 THE COURT: If you prefer it, fine.

11 MR. GOULD: If your Honor thinks I am looking at
12 his books or something --

13 THE COURT: No, you misunderstood me, Mr. Gould.

14 MR. GOULD: I certainly did.

15 THE COURT: Just a minute. I am trying to explain
16 myself. If you want an explanation, I won't give it to you.
17 That was not my point at all. I am sorry to offend you. Go
18 ahead.

19 MR. SORKIN: I don't remember how I phrased it.
20 Can I have the last question back, please?

21 THE COURT: I think he answered it. We will have
22 it read back.

23 I think we better take a recess. There is
24 something I want to take up with you gentlemen.

25 Ladies and gentlemen, we will take a five-minute

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Jerome Allen - cross

2557

recess.

(Jury absent.)

THE COURT: Will counsel come into the robing room with the reporter, please.

(In the robing room.)

THE COURT: You have to understand one thing, Mr. Gould. I have every right to say what I said because I wasn't accusing you of doing anything you claimed I was accusing you of.

MR. GOULD: I think that's the way the jury understood it, your Honor.

THE COURT: I apologize.

MR. GOULD: I was offended by it. I tell you. I wouldn't dream of looking at any of his papers.

THE COURT: I didn't say that you did.

MR. GOULD: I know. We know your Honor says a thing like that, the intimation to them is that I am looking at their papers because the only papers there were the Government's papers and I wouldn't dream of doing a thing like that.

THE COURT: Of course you wouldn't. I didn't suggest that you did.

MR. GOULD: I don't think --

THE COURT: What the jury did think was you are

1 gawe 17

Jerome Allen - cross

2558

2 trying to run this trial which I'm not going to permit.

3 MR. GOULD: I'm not trying to run this trial.

4 THE COURT: Of course you are not.

5 MR. GOULD: I'm sorry if anybody gets that im-
6 pression. I think we are in the presence of one of the
7 most aggrievous incidents that ever happened in this court-
8 house.

9 THE COURT: I agree with that, too.

10 MR. GOULD: If we are edgy about it, I can under-
11 stand it.'

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2 THE COURT: I am edgy about this because it
3 was totally unnecessary. It isn't like you.

4 MR. GOULD: I don't know what I did that was
5 offensive.

6 THE COURT: It is partly because of the con-
7 figuration of the courtroom. It is partly because Doonan
8 won't stand over to one side where he belongs. If he
9 makes any more faces when I tell him to do something, I
10 am going to clip him right off at the knees in front of
11 this jury, Mr. Sorkin. He is one of the rudest characters
12 I have seen in a long time. The Judge has the right to run
13 this courtroom. Doonan isn't going to do it nor is Mr.
14 Gould.

15 MR. SORKIN: I will instruct him.

16 THE COURT: Let's not have Mr. Flannery sending
17 me notes asking me to produce a transcript. That is not
18 my function here.

19 MR. SORKIN: I am sorry about that, your Honor.

20 THE COURT: This is kiddie night. It has been
21 kiddie night since we started.

22 I haven't seen so many amateurs in one courtroom
23 in all my experience. I want this stopped.

24 In the presence of this jury, Mr. Gould, I
25 am going to make it abundantly clear that I did not accuse

1 gab-2

2 you of looking at the Government's papers.

3 MR. GOULD: You don't have to do that, your
4 Honor.

5 THE COURT: I am going to do it. You just
6 accused me of something that I didn't intend. I don't
7 want that inference left in the jury's mind because of course,
8 you weren't doing that.

9 I am also going to explain to that jury that
10 I meant what I said, which was I do not want you or any
11 other lawyer getting in front of a lawyer on his feet. That
12 is unfair. You may not like Mr. Sorkin, which is your busi-
13 ness. What is so confusing is when Sorkin is back here asking
14 a question, all of a sudden y ou are up right in front of
15 him with your notes in front of him and writing on this
16 pile of records out there.

17 MR. GOULD: The only reason I am in front of
18 him is because your Honor suggested that I sit up front
19 because I couldn't hear. Otherwise I would never get in-
20 front of him.

21 THE COURT: I guess in order to make the record
22 clear, we would have to have a set of photographs. You
23 were up front. I just don't want you popping up to stand
24 in front of him. If you want to object, object.

25 MR. GOULD: Very well. If your Honor tells me

1 gab-3

2 that, I will conform with that.

3 THE COURT: I tell you, I guess we must all be
4 getting out of sorts for something. I don't know why I
5 think it is a lovely day. The way you fellows are going
6 on is enough to make me wonder.

7 I tell you what we will do, Mr. Sorkin.

8 MR. SORKIN: Yes, your Honor.

9 THE COURT: Throughout this trial Doonan and
10 Flannery have been a clear load of baggage as far as I can
11 see. They do nothing. They just sit down there making
12 trouble for you.

13 Can you get them to move over to one side?

14 MR. SORKIN: I certainly will, your Honor.

15 THE COURT: Doonan isn't even a lawyer. If
16 he keeps on sitting there looking like a boob, I am going to
17 have him removed from the courtroom. I am tired of looking
18 at his insulting face. All he does is cringe whenever I
19 speak. I am speaking for a good reason. I want those
20 records moved out of the way so we can move up and down.
21 It looks like a cockpit out there. That is why this man
22 Gould takes me on in front of the jury when I wasn't accusing
23 him of anything he claims.

24 The next thing is, Mr. Gould, I am going to tell
25 you this right now. If you get angry at me, you tell me.

1 gab-4

2 MR. GOULD: I am not angry. I have never been
3 angry.

4 THE COURT: You certainly are off your rocker
5 if you are going to think that I accused you of looking
6 at the Government's papers.

7 MR. GOULD: I don't think you did. I think
8 what your Honor said, however, conveyed to them the impression
9 that I was.

10 THE COURT: I will apologize.

11 MR. GOULD: I think it was unfortunate. I
12 think it was purely inadvertent. I think I over-reacted
13 to it.

14 THE COURT: I think you did. Let me tell you what
15 I am going to do. I am going to apologize to the jury and tell
16 them --

17 MR. GOULD: You don't have to. I over-reacted.
18 I don't think you meant that. I thought, you know, almost
19 instinctively that you did. I think I over-reacted. I
20 am sorry. I am a little edgy about this case because some-
21 thing is happening in this case that never happened to me
22 before.

23 THE COURT: It happens to me quite frequently.

24 MR. GOULD: I never saw anything like this per-
25 formance that we are going through now.

1 THE COURT: Nor did I.

2
3 MR. GOULD: I have been around 40 years. Nobody
4 has ever done what this man has done.

5 MR. SORKIN: Who called him as a witness?

6 MR. GOULD: Who called him as a witness?

7 THE COURT: Just a minute.

8 MR. GOULD: What do you want me to do, suppress
9 his testimony? You would.

10 MR. SORKIN: No, Mr. Gould.

11 MR. GOULD: You bet I called him and I believe
12 him. I believe everything he says about you, too.

13 MR. SORKIN: Fine.

14 MR. GOULD: As long as we are getting into that.
15 I don't propose to let the matter rest in this trial no
16 matter how it comes out since you want to make accusations
17 against me.

18 THE COURT: Just a minute, gentlemen. I didn't
19 have you in here to invite these threats and counter threats.
20 Mr. Gould, I mean it. I do not want to be guilty, no
21 matter how innocent my remarks were intended, of deminishing
22 you or any other lawyer in the eyes of a jury. I intend
23 to apologize unless you say that you want --

24 MR. GOULD: I don't ask your Honor to apologize
25 because having reflected on it, I understand what happened.

1 gab-6

2 I should not have run up there. I of course
3 didn't look at any books. I understand how your Honor
4 thinks it contributes to disorder in the courtroom. I think
5 it is all the fault of the way we are piled up in that corner
6 in front of the jury.

7 THE COURT: That I agree with.

8 MR. GOULD: If he moves his stuff out of there
9 and get these kids back away, maybe we will have some room to
10 work.

11 THE COURT: That is what I am saying. Mr.
12 Sorkin, this is really a problem and I mean it. Flannery
13 is a nice young man. He doesn't know A from Z. He shouldn't
14 be sitting there anyhow. Move him and Doonan over.

15 MR. SORKIN: I will, your Honor.

16 THE COURT: They understand this. They are nice
17 fellows. They just aren't trained yet.

18 MR. GOULD: If we can get that truck over on
19 the other side. When they want a paper, they can go over
20 and get it.

21 THE COURT: Right. If you want to pull those
22 files from out of the truck on your table, fine. It is
23 just clogged up that way.

24 MR. SORKIN: I will move that over, your Honor.

25 THE COURT: That is what caused this. I was

1 gab-7

2 confused by Mr. Gould jumping up in front of you. The poor
3 man I guess didn't have any choice.

4 I repeat once more: Do you want me to apologize?
5 Because I certainly didn't mean to accuse you of looking --

6 MR. GOULD: I am sure you didn't.

7 THE COURT: First of all, it would have been
8 a waste of your time. I just feel so badly about it.

9 MR. GOULD: There is no reason to. I quite
10 understand your reaction. I am sorry I over-reacted to it.
11 If anything, I ought to apologize to you --

12 THE COURT: I am not interested in that and
13 neither are you.

14 MR. GOULD: We have been together many times
15 in many cases. ~~We never suffer from a lack of mutual respect.~~
16 It is not going to happen in this one.

17 THE COURT: I am sure of that. I accept that.
18 You see, why don't you take a few minutes. Mr. Flannery,
19 may I just give you a little advice. Don't write silly notes
20 to the Judge like that or ask his law clerk. She doesn't
21 know anything. I am not carrying transcripts around with
22 me. That is not my function. You have to understand that.

23 MR. FLANNERY: Your Honor, I was merely request-
24 ing a copy of the minutes since they were not obtainable
25 either fr-m the clerk's office nor could --

1 gab-8 2566
2 THE COURT: What did you think I did, took
3 the stenotype that day? That is so silly.

4 MR. FLANNERY: It was represented to me by
5 the clerk's office that your office had these minutes. That
6 is why I made the request.

7 THE COURT: You don't send the Judge a note in
8 the middle of a trial because some stupid clerk somewhere in the
9 bowels of the building gives you this information. That
10 is one of the first rules around here. It is not a matter
11 of apology. You are in an office. When I was there they
12 used to teach us. This office doesn't. I feel very badly
13 for young fellows like you. You get no help at all. Just
14 accept this as a training guide. Don't send silly requests
15 to the Judge like that.

16 MR. FLANNERY: Yes, your Honor.

17 THE COURT: All right. Let's go out and recast
18 this courtroom and --

19 MR. GOULD: I think there is one matter we might
20 as well thresh out.

21 I must confess, your Honor, I am astonished
22 by what Mr. Sorkin is doing right now. I didn't anticipate
23 it. In fact, I hoped it wouldn't happen. I think we all
24 might as well recognize that by his attempt of cross-
25 examination of this witness, he has opened the door to a

1 gab-9
2 kind of redirect which I hoped we wouldn't have. I think
3 he ought to understand that I propose to do that.

4 THE COURT: Mr. Gould --

5 MR. GOULD: I don't want any Second Avenue
6 melodrama in this courtroom when I do what I am going to have
7 to do. I want him to know it.

8 THE COURT: I am sure he knows whatever there
9 is to know. There we are.

10 All right. Let's go outside.

11 (Recess.)

12 (In open court; jury present.)

13 THE COURT: Mrs. DeBartola and ladies and gentle-
14 men, thank you for your patience. You may notice a physical
15 change here in the well and that is the reason I took the
16 recess. It suddenly occurred to me that none of the
17 lawyers have an adequate space to really work down here with
18 all this material that was crowded in unwittingly, I am sure,
19 right out in front of you, and we had a discussion about this
20 and moved it aside. It will make it easier for the examining
21 lawyer and then for those lawyers who are trying to hear and
22 they won't have to come forward now, at least we hope not.
23 That is what we were up to while you were in the jury room.

24 All right. Go ahead, Mr. Sorkin.

25 MR. SORKIN: Thank you, your Honor.

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2 BY MR. SORKIN:

3 Q Mr. Allen, let me show you now what is in
4 evidence marked as Government Exhibit 42. Would you read
5 that letter, please.

6 A "The judicial process" --

7 Q What is the date of it?

8 A December 22, Mr. Sorkin.

9 Q To whom was it sent?

10 A I am sorry. It was sent to your office, to you.

11 Q To me?

12 A Yes, Ira Sorkin.

13 Q I see. This is the one after the December 4th
14 letter?

15 A It is dated December 22, yes, sir.

16 Q Go ahead.

17 A "The judicial process has been somewhat slowed
18 down by the holidays, I am awaiting funds to pay my debts
19 here." I am referring to the Swiss check there. I don't
20 mean --

21 Q I understand.

22 A "There is something unheroic about my current
23 status. Samson went down in the Temple of Dagon; Hector
24 was destroyed before the Walls of Troy; Hamlet died in the
25 presence of the Royal Court, and Jerry Allen squats patiently

gab-11

Jerome Allen-cross

1 gab-11 Jerome Allen-cross
2 in a Swiss jail because of a bank overdraft. Incidentally,
3 I telephoned the jeweler in question at least two weeks before
4 my arrest stating that I would make the check good. I have
5 met with Mr. Rand of the State Department and told him that
6 I would not oppose extradition. He stated that your office
7 would ask for minimal bail; since I voluntarily requested
8 going back. For years I took on the veneer of an American
9 abroad, preferring French wine; Italian sopranos and
10 German doctors. Although I have been in over thirty countries,
11 my instincts can't be aborted. I would gladly trade a
12 dinner at Maxim's in Paris for a Nathan's frankfurter, and a
13 day at Shea Stadium than to stroll on the Champs-Elysee.

14 "The pressure being exerted upon me by certain
15 people from the States -- 'asking me not to return' -- has
16 taken on gargantuan proportions."

17 Q Let me just look at that with you.

18 A "In the states asking me" --

19 Q "Asking" in quotes.

20 MR. GOULD: Can we just hear it?

21 A "Asking me not to return has taken on gargantuan
22 proportions. I have never operated on D'Onofrio's scale, so why
23 should I become a world gypsy? And so a toast to the 'young
24 man that was.' To his dreams for they were rainbow-colored;
25 to his appetites for they were strong, to his blunders, for

gab-12

Jerome Allen-cross

1 they were huge; to his beloved for she was sweet; to his
2 pain; for it was sharp, to his time, for it was brief.
3

4 "In the Lotus Land where the sunshine fades not,
5 where the flowers are spring flowers, and the grass is
6 an April green forever, he still walks his jaunty, trusting
7 way. God pity us all -- with what precious coins have we
8 bought our philosophy. Bring me back. Thanks, Jerry
9 Allen."

10 Q "Bring me back" is underlined, isn't it?

11 A Yes.

12 Q You mentioned Mr. Rand in here. Is that the same
13 Mr. Rand that you testified earlier who told you about
14 pressure and the threats that would be coming and were coming
15 from the Justice Department?

16 A Yes, sir, and there was pressure for having me
17 not come home.

18 Q There was pressure to have you not come home?

19 A Yes.

20 Q We will get to that. In this letter now, which
21 was sent on December 22, 1973, I say -- I am looking on the
22 other side, back of it, and I am quoting you -- "The pressure
23 being exerted upon me by certain people in the States 'asking
24 me not to return has taken on gargantuan proportions.'"

25 A Yes, sir.

1

2

Q What people in the States --

3

A I will answer you, sir.

4

Q Please do.

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8

A The people in the Berardelli, the Mafia people in the Eberhardt case let it be known to me if I came back and testified in front of Eberhardt against them, which I did, I would have cement overshoes. They didn't say that --

9

Q Did --

10

11

MR. GOULD: I would like him to finish, your Honor.

12

Q I am sorry.

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A It did not come to my -- the word cement overshoes was not in the letter, the innuendo was there, that they were aware of the fact that I was in jail and that if I came back and testified against a Mr. Yagid and a Mr. Rush who served eight years, I believe, in San Quentin, that I would be certain things would happen. I had a visitor in jail who reflected that view to me representing them.

Q Now, did you, Mr. Allen, tell Mr. Rand or anyone else that the Mafia was threatening you not to return?

A Yes, I did.

End 7B23

1 qb-1
2 Q Who did you tell now?

3 A I told that to Mr. Rand and I told that to Mr.
4 Wyler and Mr. Rand said, "Jerry, you are having a grandchild.
5 If you don't return Sorkin's office will exert pressure through
6 me on this court and you will have two years in solitary."

7 Q You chose then to return to the United States and
8 face two indictments at the time, the passbook case and the
9 Coatings case, is that correct?

10 A It was a choice --

11 Q Yes or no?

12 A Some questions have to be answered in the context
13 of the answer.

14 THE COURT: That can be a yes or no. I under-
15 stand your desires, but that can be done later.

16 A The answer would be yes.

17 Q You were facing two years in a Swiss jail,
18 solitary confinement, as you say. How many years were you
19 facing --

20 MR. GOULD: Is that a question?

21 MR. SORKIN: I am asking the question now. The
22 question is: Was it your understanding that if you stayed
23 in Switzerland you would be facing two years in solitary
24 confinement?

25 THE WITNESS: If I lost the case.

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Q If you lost the case, is that correct?

A That is right.

Q You came back to the United States to face two conspiracy stock fraud indictments, is that correct?

A Yes, sir.

Q How many years were you facing in those indictments, Mr. Allen?

MR. GOULD: I object to that. That isn't susceptible of an answer.

THE COURT: In any event, for that and other reasons, I agree, sustained.

You have a fair question here, Mr. Sorkin. I don't deny that.

Q Do you know, Mr. Allen, the number of counts against you in the two indictments?

A You always made that obvious. You said Allen, you can get 130 years.

Q Please --

MR. GOULD: Can we get the answer finished?

Q How many counts were you charged --

MR. GOULD: There was an answer in the process.

MR. SORKIN: I will rephrase the question.

MR. GOULD: I am not asking to rephrase the question. I am trying to hear what the witness said.

1 THE COURT: I don't think I want to hear either
2 the question or the answer, Mr. Gould, because I think it is
3 susceptible of the same objection you made a moment ago.
4 It is nothing but a rehash of the same problem. You can
5 ask him what his understanding was as to what the possibilities
6 were in face of these charges, but I don't think we have to
7 get into a counting exercise.
8

9 Q What was your understanding, Mr. Allen, with
10 respect to the passbook indictment and the Coatings indict-
11 ment as to how many years in prison you could be sentenced
12 to if you were found guilty?

13 MR. GOULD: I object to that.

14 MR. SORKIN: If he knows, that is all I am asking.

15 THE COURT: I think there is a better question
16 here and I am getting a little tired of intervening, but . . .
17 in order to keep the thing on an even keel I will say flatly,
18 Mr. Sorkin, I made the point. I will allow him to state
19 what his understanding or his expectations were of what he
20 was facing. Do you see what I mean, Mr. Allen?

21 THE WITNESS: Yes, your Honor. In the Eberhardt
22 case I had no idea what I would face. In the case that you
23 had indicted me on or were threatening to indict me on --

24 Q YOU had already been indicted.

25 A On the Coatings case based upon what you told me

2 if I cooperated to get Marty Frank, you would let me off
3 easy.

4 Q My question to you is then: What was leeting you
5 offeasay? How many years did you expect to get?

6 A You said you would make me a softer deal as you
7 would try to make Ray D'Onofrio.

8 Q Give me a year.

9 MR. GOULD: I must hear what the witness says. It
10 is just as important as a counsel's oratory.

11 MR. SORKIN: I agree with Mr. Gould but he is
12 not being responsive to the question.

13 MR. GOULD: I can't hear.

14 (Answer read.)

15 Q What was your understanding as to how many
16 years this softer deal would mean to you?

17 A What?

18 Q The question, Mr. Allen, is: What was your
19 understanding as to the number of years this so-called softer
20 deal would mean to you?

21 A You told me in August before I went to Europe that
22 if I cooperated with you I would get probably less than two
23 years and if I didn't you would arrange for consecutive
24 sentending.

25 Q Who did we say we would arrange it with?

1 qb-5
2 A Influences would be exerted upon the sentencing
3 Judge is your words.

4 Q Who was the sentencing Judge?

5 A At that time in last August, I don't think the
6 Judge was determined. Excuse me, Judge Gurfein I believe
7 was appointed to the Coatings case at the time.

8 Q When you were in Switzerland or prior to the time
9 you went to Switzerland, did you have any objection to the
10 way Mr. Eberhardt was conducting himself?

11 A No, sir.

12 Q When you came back from Switzerland did you tell
13 Mr. Eberhardt who was also with the Department of Justice
14 about what Mr. Doonan and I in this office were doing to you,
15 yes or no?

16 A Yes.

17 Q When did you tell Mr. Eberhardt?

18 A I told Mr. Eberhardt that I --

19 Q I said when did you tell Mr. Eberhardt, not what
20 you said.

21 A When I agreed to testify for Mr. Eberhardt --
22 MR. SORKIN: I am sorry, your Honor. I don't
23 want to argue with the witness and I don't want to raise
24 my voice.

25 A I don't remember the month that I gave testimony

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qb-6

Jerome Allen-cross

2577 .

for Mr.Eberhardt on the stand. You can tell me that.

Q You are saying now that you told Mr. Eberhardt prior to the time you took the stand in his case --

A That you hit below the belt.

Q What else did you tell Mr.Eberhardt?

A I said, "Mr. Eberhardt, you are trying to put me in jail but you are doing it in a legal, hard-hitting way, but that the Topsy Twins,and I use that phrase in a letter to Mr.Eberhardt, were amoral men," and Mr. Eberhardt said, "That is their concern, I am interested in this case."

Q You told Mr. Eberhardt that the Topsy Twins --

A I used the phrase in a letter to Mr. Eberhardt.

Q I want to know whatyou told Mr. Eberhardt before you testified for him in his case.

A I told him that your office did not behave the way his office did.

Q What else did you say, Mr. Allen?

A I also told him that I thought you were an amoral man.

Q What else did you say?

A What else?

Q Did you tell him about the narcotics threat?

A I don't know.

Q Did you tell him about the frivolous indictment threat?

1
2 A Yes, I told him, "You indicted me in Coatings
3 frivolously. I told him that last August -- do you want
4 an answer --

5 Q Tell me the answer.

6 A Last August when I was indicted in the --

7 MR. SORKIN: I am only inquiring as to what he
8 told Mr. Eberhardt prior to the time, not what he said last
9 August in '73. Prior to the time he testified before Mr.
10 Eberhardt, what did he say to him?

11 MR. GOULD: If your Honor please, I feel as if
12 I am just being buffered around here. I am not a participant
13 in this process any more. There seems to be some kind
14 of frenzied debate going on between the examiner and the
15 witness. I don't hear. I don't hear his responses. He
16 cuts him off in the middle of it and I appeal to your Honor
17 to ask him to control himself so we can get this out in an
18 orderly way, and I can make appropriate notes for redirect
19 examination which I propose to conduct in this case.

20 THE COURT: This is about the fifth time this
21 has been raised and I think I have tried to respond in good
22 faith as in previous times.

23 MR. GOULD: It is not a complaint against your
24 Honor. I make that very clear.

25 THE COURT: There are certain individuals who

1 just speak and act this way. Apparently we are not going
2 to remake them in this courtroom and that seems to be that.
3 More seriously for the moment is this: I think, Mr. Sorkin,
4 it would help, and I think this is really the key -- I
5 sympathize with Mr. Gould, but I don't analyze the problem
6 the way he does. Simply do as I asked before. Put your
7 questions calmly. If you feel that this witness does not
8 answer responsively, I will try to intervene. But don't be
9 so quick to interrupt.
10

11 MR. SORKIN: Yes, your Honor.

12 THE COURT: Also, if you would stay back there
13 it would remind Mr. Allen to raise his voice.

14 THE WITNESS: I am sorry.

15 THE COURT: You don't need to apologize. All
16 witnesses do this, we all do this. Just talk out to the
17 back of the room.

18 Q Mr. Allen, the question to you is: First, when
19 did you tell Mr. Eberhardt about the conduct of this office
20 and, in particular, Mr. Doonan and myself?

21 A I was in Mr. Eberhardt's office when he was ques-
22 tioning me one day on the passbook case. You called his
23 office perhaps by coincidence. I don't remember the time.
24 It was prior to my testifying for Eberhardt. I would say --
25 I don't know the date of the Eberhardt case, April or May,

1 I honest to God don't remember. I was in his office discussing
2 matters relevant to the case. You called I believe by
3 accident. I don't know if you knew I was there. I heard
4 him speaking to you.
5

6 Q What was the date?

7 A It was a few weeks before the passbook case.

8 Q What did you tell Mr. Eberhardt?

9 A I told Mr. Eberhardt that Sorkin is threatening
10 to name me -- Sorkin named me -- is threatening to name me
11 in a case -- although I have done many wrong things in my
12 life he wants to use me as a billiard board to get Frank and
13 Stoller.

14 MR. GOULD: Billiard board?

15 THE WITNESS: Like a carom shot.

16 Q This was well after Training with the Pros indictment
17 came down?

18 A The Training With the Pros indictment was February.

19 Q This was well after that?

20 A Yes, it was.

21 Q And you say you told Mr. Bregman, your lawyer?

22 A I made allusion to your behavior. He just
23 said you were aggressive.

24 Q What kind of allusions did you tell Mr. Bregman?
25 Withdrawn.

1 qb-10
2 Did you ever tell Mr. Bregman about the threats,
3 about the frivolous indictments, about the planting of
4 narcotics?

5 A Yes, I showed him the letters that I wrote
6 last October.

7 Q Did you show him the letter you wrote December
8 4 and December 22?

9 A No, you never gave me a copy. I asked for it.

10 Q We never gave you a copy?

11 A There were many things you have you never gave
12 me.

13 Q Please, Mr. Allen. Do you know if Mr. Bregman
14 asked the office, asked me for those letters?

15 A I have no knowledge of that.

16 Q You say the first time, Mr. Allen, that you, as
17 you call it, began to cooperate with this office was after
18 you returned from Switzerland, is that correct?

19 A You arrested me at the airport, I think, on the
20 night of January 15, and brought me right to your office.

21 Q Had you seen Mr. Doonan prior to that time?

22 A I don't believe he was at the airport, no, sir.

23 Q Let's take, Mr. Allen, before you came back on
24 January 15, 1974. Had you seen Mr. Doonan prior to that
25 time?

1

A I saw him last summer, the summer of '73.

2

Q Did you have conversations with him?

3

A Yes, I did.

4

Q When did you first see him?

5

A When did I first see Mr. Doonan?

6

Q Yes, sir.

7

A I believe it was July and August of '73. On the
30th floor, Room 3002, I believe.

9

Q Do you remember the date?

10

A I came down on a number of occasions and I broke
a number of dates.

12

Q Did you have a lawyer at that time?

13

A Mr. Frank.

14

Q Mr. Frank was your lawyer at the time. Do you
remember a meeting with Mr. Doonan on August 29, 1973, in this
courthouse?

17

A I don't remember that specific date, no.

18

Q You don't remember that specific date.

19

MR. GOULD: Must counsel repeat the answer each
time?

21

MR. SORKIN: I am sorry.

22

MR. GOULD: It is most disconcerting and it is
most improper.

24

MR. SORKIN: I am sorry, your Honor, I apologize.

25

1 qb-12
2 Q Do you remember having a conversation with Mr.
3 Doonan, Mr. Allen?

4 A I had a number of them in the summer of '73.
5 Before I went to Europe in October.

6 Q Before you went to Europe you had a number of
7 conversations. Do you remember what you said to him?

8 A Not specifically. We discussed a number of cases
9 that he allegedly participated in and you were at some of
10 the meetings and at some you were not there.

11 Q During the conversation before you went to
12 Switzerland did the name Shirley come up?

13 A I believe it did.

14 Q Did you ever tell Mr. Doonan that Shirley was
15 an account at Bank Hofmann?

16 MR. GOULD: I object to this, your Honor. This
17 isn't proper cross-examination. He wasn't asked anything
18 about that on his direct. If you want to open it up we
19 better have a discussion about what we are going to open up
20 now.

21 MR. SORKIN: This goes to the witness' credibility
22 and I should be given leeway.

23 THE COURT: I am certainly going to give you
24 leeway but what baffles me is the approach. I am sure that
25 you are probably right. We will get down to this sooner

2 or later, but what does this have to do with the direct
3 testimony of his? I think you can do a better job -- forget
4 what Mr. Gould says and forget what the Judge says. It
5 seems irrational to approach it that way from your point of
6 view.

7 Q Did you have a conversation with Mr. Doonan
8 at that time about Swiss banks?

9 A Yes, after I spoke to you.

10 Q You spoke to me --

11 A And you said "Speak to me without your lawyer."
12 You don't want my lawyer there.

13 Q I told you --

14 A You said, "I am not even going to issue a subpoena."
15 You asked me what I said and I tell you. If you don't like
16 what I say you cut me off.

17 Q I want you to answer the question.

18 A Did you say that, Mr. Sorkin?

19 Q Mr. Allen, when did you speak to him before you
20 spoke to Mr. Doonan?

21 A When? I don't know the exact date. I spoke
22 to you on a number of occasions. I don't know whether it
23 was July or August. I can't pinpoint the dates.

24 Q You are saying that Mr. Doonan and particularly
25 me told you we don't speak to you with your lawyer present, is

1 that it, yes or no?

2 A Yes, you didn't --

3 MR. SORKIN: I ask for a direction that the
4 witness answer the question.
5

6 A You didn't want my lawyer. You didn't even issue
7 a subpoena.

8 THE COURT: Ladies and gentlemen of the jury,
9 I will ask you to disregard this last answer and indeded the
10 last question. We will start all over.

11 Mr. Allen, I don't know you but as I am trying to
12 tell you, the system works better --

13 THE WITNESS: He tries to overpower me.

14 THE COURT: I am not going to let him overpower
15 you. Everybody seems to think they are being overpowered in
16 this situation. Don't worry about it. Nobody has been over-
17 powered yet to my knowledge. I assert to you I will do my
18 best to protect you.

19 Let's go ahead, Mr. Sorkin. Start again and would
20 you stay back there.

21 Q Mr. Allen, prior to your seeing Mr. Doonan in July
22 or August of '68, you say you met with me.

23 A On a number of occasions. Or spoke to you by
24 phone.

End 8A

25

2 Q You spoke to me by phone, is that right?

3 A Yes.

4 Q Did we talk about the Coatings case, yes or no?

5 A Yes.

6 Q Did we talk about the Passbook case, yes or no?

7 A You made some references to it but you zeroed in on
8 Coatings and other matters.

9 Q Other matters?

10 A Yes.

11 Q Did we talk about a company called Resource
12 Control?

13 A You asked me a number of questions about that,
14 yes.

15 Q And Training With the Pros?

16 A And maybe ten other stocks, yes.

17 Q And then you went and saw Mr. Doonan, is that
18 what you are telling us?

19 A I saw him, yes. I said that before.

20 Q Do you remember what you told Mr. Doonan?

21 A No, I don't, Mr. Sorkin.

22 MR. SORKIN: May we have this marked as Govern-
23 ment's Exhibit number 112.

24 THE COURT: Has it been previously marked for
25 identification?

2 MR. SORKIN: It has a 3500 number on it.

3 THE COURT: That is what I mean. What number is
4 it?

5 MR. SORKIN: 3507H.

6 THE COURT: You want another number?

7 MR. GOULD: If your Honor please, I think it
8 better be remarked because I don't think he understands
9 the problem. It is not 3500 material in any sense.

10 THE COURT: I merely wanted to find out if it al-
11 ready had another number.

12 MR. GOULD: It should be given a Government's
13 exhibit number.

14 THE COURT: If that suits your fancy I would be
15 well and happy to indulge you so we will have another
16 number. The defense will like it, fine.

17 We will call it GX 112. But it was formerly
18 marked as 3507H.

xx 19 (Government's Exhibit 112 marked for identifica-
20 tion.)

21 Q Mr. Allen, would you look at this and see if this
22 refreshes your recollection as to what you told Mr. Doonan
23 at that time?

24 A There is no date on this. You say at that time.
25 What was the time?

2 Q Let's take September 23, 1973, around that time.

3 A You just said I met him in July and August.

4 Q Let's go to September 23.

5 A This is a meeting after the meeting you talked
6 about.

7 Q All right. Do you recall telling that to Mr.
8 Doonan at any time?

9 MR. GOULD: No.

10 Q Does that refresh your recollection as to what
11 you told Mr. Doonan?

12 A Let me read it first.

13 Q Surely.

14 A I don't understand what this means down here, Mr.
15 Sorkin.

16 Q Read this right here and I ask you if that refreshes
17 your recollection as to what you told Mr. Doonan.

18 A This is what I told Mr. Doonan after speaking to
19 you, yes.

20 Q Now, your memory is refreshed?

21 A You were the quarterback.

22 Q Mr. Allen, please.

23 You are saying then that this refreshes your
24 recollection?

25 A Yes, that is what you told me to say.

Q Let's do this: You tell us now what your memory is as to what you told Mr. Doonan, just that first.

A When you called me down to your office, Mr. Sorkin --

MR. SORKIN: Your Honor --

A Why do you take events out of context?

MR. SORKIN: I am merely asking him what he told Mr. Doonan that refreshes his recollection.

MR. FELDSHUH: Can I have the place, please?

THE COURT: You said something, Mr. Feldshuh?

MR. FELDSHUH: I asked counsel to fix the place.

THE COURT: We will start all over again and I would ask you, Mr. Feldshuh, do your best to listen to this.

MR. FELDSHUH: Okay, sir.

THE COURT: Mr. Allen, in order to get us on the track, he asked you to look at this paper, right?

THE WITNESS: Yes.

THE COURT: And you told us that looking at that paper refreshes your recollection as to something which you said to --

THE WITNESS: That is not what I said, your Honor.

THE COURT: Would you let me finish?

THE WITNESS: My apologies.

2 THE COURT: I am trying to get this straightened
3 out that is why I am asking.

4 I believe, but you certainly may correct me if I
5 am wrong, that you said to Mr. Sorkin that after you looked
6 at this piece of paper which has been happily renumbered
7 as Government's Exhibit 112 for identification, that that
8 refreshed your recollection. Am I wrong about that?

9 THE WITNESS: But not the way it was stated.

10 THE COURT: I am not Mr. Sorkin, please.

11 THE WITNESS: I had a series of meetings --

12 THE COURT: There is an evidentiary rule which
13 Mr. Sorkin was trying to comply with in order to avoid
14 possible objection by these other lawyers.

15 What I am trying to find out is: Did your read-
16 ing of what we call Government 112 for identification refresh
17 your memory as to what you said to Agent Thomas Doonan?

18 THE WITNESS: What I said to Doonan is not what he
19 wrote in those notes.

20 THE COURT: So it does not refresh your recol-
21 lection?

22 THE WITNESS: I did have a meeting with him.

23 THE COURT: I understand. You are telling me
24 what you read does not refresh your recollection?

25 THE WITNESS: That is right.

1 THE COURT: Thank you very much.

2
3 Q Now, Mr. Allen, do you recall meeting Mr. Doonan,
4 a Mr. Carl Drier, a Mr. Joseph Kelly and myself at the
5 office of the United States Attorney on January 23, 1974, the
6 week after you returned?

7 A Yes, I did. I had a number of meetings.

8 Q I am not interested in a number. We will get to
9 all the meetings you had. January 23, 1974.

10 A I can't remember the date but I had meetings -- I
11 practically lived in your office after I came back.

12 MR. SORKIN: May we have this marked as Govern-
13 ment's Exhibit number 114, please.

14 MR. SORKIN: With the Court's permission, I am
15 taking what was 112 and making it 113. There was a mis-
16 take in the numbering.

17 Q Mr. Allen, first let me ask you, do you recall
18 what was said in the presence of Mr. Drier, Mr. Doonan and
19 the other persons I mentioned?

20 A Yes, sir, I repeated the script you prepared me
21 for.

22 Q What was the script that I prepared you for? Did
23 you repeat it for Mr. Doonan and Mr. Drier?

24 A I had a few meetings. What specific meeting-

25 Q Let's take the January 23 meeting in the office

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page 7

Jerome Allen - cross

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of the United States attorney.

A I repeated the testimony you said D'Onofrio would give.

Q Would you look at Government's Exhibits number 114 for identification and I ask you if that refreshes your recollection as to what you told Mr. Drier and Mr. Doonan and Mr. Kelly and myself?

A Yes, this is what you told me to say.

Q When did I tell you to say this --

A The night you kept me in the office and threatened me --

Q Mr. Allen, please.

A I am sorry, I raised my voice.

Q I am trying to conduct this in the manner in which the Judge wants us to conduct it in.

THE COURT: Wait a minute. I don't quite follow that one. I am not helping you with these questions.

MR. SORKIN: Then I ask Mr. Allen to please wait until the question is asked before he blurts out his answer.

THE COURT: We are familiar with this syndrome now, Mr. Sorkin.

Don't concern yourself with it. We have been trying all morning at your entreaty, at Mr. Gould's entreaty. Everybody knows what we have been trying to do. Why worry about it? Let's go.

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Q You say this does refresh your recollection?

A It is what you told me to say.

Q Does this refresh your recollection as to what you told Mr. Doonan and Mr. Kelly --

A Over and over again at your suggestion.

Q Mr. Allen, please.

A Yes, you told me what to say and I said it.

Q You don't like me. That's been established.

Now, let's answer the questions.

Do you recall now what you told Mr. Doonan and Mr. Kelly and Mr. Drier?

A Yes.

Q Tell us please, what you told them.

A You told me to say --

MR. SORKIN: Your Honor, I will ask at this time --

THE COURT: You already made the point, Mr. Allen. You recognize that. You don't have to repeat that. What is it you said?

A I told them at that time under pressure from you that Freddy Herbert and Mr. Stoller asked me to write letters back to the States. You knew that was not the truth because when I wrote those letters --

Q Please, Mr. Allen --

MR. GOULD: Let him finish.

Q I am not asking you what I knew and I am not asking you what someone else knew. I am asking you to exhaust your recollection as to what you told Mr. Drier and Mr. Doonan and Mr. Kelly and me in my office on January 23, the conversation. What did you tell them?

A I told the group collectively what you asked me to say individually and that was that Herbert -- you said Allen, you have got to say that Herbert and Stoller asked you to write those letters.

Q You told Mr. Doonan then that I said to you you got to tell them that Stoller --

A Because when I wrote the letters Marty Frank jumped on me for writing them.

Q Let's do it again.

What did you tell Mr. Doonan, Mr. Kelly and Mr. Drier and me in my office on January 23, after looking at Government's Exhibit 114 --

A I repeated. You know what I said. It is there.

Q Is this what you said?

A That is what you told me to say.

Q Is this what you said?

A Yes.

THE COURT: Mr. Allen, you have told us

conservatively about 14 times --

THE WITNESS: Why does he keep repeating it?

THE COURT: Listen to me. Forget Mr. Sorkin.

The question he is asking you, and no one has objected, is to simply say what you have told him that day. You have told us 14 times that I have counted, and I may have miscounted but certainly sufficient, that everything, you told them Sorkin told you to tell. We all understand that. Tell us now what did you say to these men?

THE WITNESS: What is in this text, Mr. Sorkin. But not precisely what is there.

THE COURT: Then tell us precisely the way you remember it.

MR. SORKIN: Tell us precisely what you remember.

THE COURT: Mr. Sorkin, please. We have enough difficulties here. Why do you repeat?

A They said they had information that Mr. Stoller maintained an apartment. They asked me if that was true. I said yes I believe it was. Although I don't think I had ever been to the apartment. I was surprised. I said, "How did you find out" and he said, "We have our ways."

Q What else did you tell them.

A Then I told them at that time, following my meeting with you, that Stoller and Herbert had asked me to write

2 letters back to the Judges, as far back as last October.
3 That was lying to save myself from future indictments.

4 Q What you have repeated now 15 times, it is your
5 testimony that before you met with Doonan and Kelly and
6 Brier and myself, I asked you to tell them, and me again,
7 this, is that what you are saying?

8 A Yes, you restructured the fact.

9 Q Where did we do it?

10 A We started the night you arrested me and brought
11 me directly to your office without providing me with counsel.
12 I wanted a lawyer present and you said "There is no need for
13 one, you are under arrest. You have been in the Swiss jail.
14 I saved you from two years, now talk."

15 I said, "What is my bail" and you said you pro-
16 mised Mr. Weiler my bail would be as you said --

17 Q Who else was present when you said these things
18 to me or I said these things to you?

19 A I believe Mr. Doonan may have come in and out of
20 the room.

21 Q How about John Slavinsky of the Postal Service,
22 who arrested you?

23 A He came in and out.

24 Q How about Al Gray of the Postal Service who
25 arrested you?

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A He was not there in the late conversation.

Q In the late conversation?

A You pulled me down --

Q Just listen to my question.

Were they there when I told you these things?

A No.

Q They weren't there?

A No.

Q I waited until they got out of the office?

A You usually do.

Q Mr. Allen, please listen to my question. Were you put in jail that night --

MR. GOULD: Stop yelling so much.

MR. SORKIN: I am sorry --

MR. GOULD: This is very offensive to me. He keeps yelling and I have to sit here. He is just wearing me down with this shouting.

MR. SORKIN: The best I can do is lower my voice and ask the questions.

MR. GOULD: I should think it would be.

THE COURT: Just a moment, please.

Would you mind getting back there and Mr. Gould, would you mind joining us again in the well?

MR. GOULD: Your Honor, that is just as bad when

1 we do it there.

2 THE COURT: If you will be patient I will try to
3 honor your request but I will do it in my own way, please.

4 THE WITNESS: What was the question --

5 THE COURT: Wait a minute.

6 Mr. Sorkin says he is going to stop yelling.
7 Would you do this for all of us. Wait, answer the question
8 and I mean answer it directly. I don't want to tell you
9 again that whatever your feelings are and how many lies you
10 claimed others were putting in your mouths or attempting to,
11 fine. You will have your chance to say that even again if
12 you like but I insist that you answer the question. The
13 same rule goes if Mr. Gould is asking you the question as
14 with Mr. Sorkin.
15

16 THE WITNESS: Yes, your Honor.

17 THE COURT: We will go ahead.

18 Q Mr. Allen, yes or no, please, were you incarcerated
19 the evenig that you returned from the United States in
20 jail?

21 A No, I was not.

22 Q Mr. Allen, when did you retain Mr. Bregman as
23 your attorney?

24 A I believe it was perhaps a week or so later, Mr.
25 Sorkin. I can't give you an exact date.

1

2

Q A week or so later?

3

A I may be wrong. It was a few days after I came

4

back.

5

Q After January 15?

6

A I believe so. Maybe a week or so but please

7

don't pin me down. I don't remember exactly.

8

Q Do you recall meeting Mr. Doonan in the United

9

States office, in his office, on February 11, 1974?

10

A I remember meeting -- I can't remember a specific

11

date, Mr. Sorkin.

12

MR. SORKIN: May we have this marked as Govern-

13

ment's Exhibit 115, please.

xx

14

(Government's Exhibit 115 marked for identi-

15

fication.)

16

Q I am going to show you Government's Exhibit 115

17

and I am going to ask you now if you recall now, not a

18

meeting, but a telephone conversation with Mr. Doonan on that

19

date?

20

A This is January -- February 11. Is that the

21

date?

22

Q Yes, sir. Do you remember having a telephone

23

conversation with Mr. Doonan on that particular date?

24

A I don't remember specific dates. There were many

25

conversations.

1 jge 15

Jerome Allen - cross

2600

2 Q Do you recall what you told Mr. Doonan?

3 A No, I don't.

4 Q Let's see if you can refresh your recollection.
5 Would you look at Government's Exhibit 115 and see if that
6 refreshes your recollection.

7 A I am having trouble reading this. I am not being
8 evasive, Mr. Sorkin.

9 Q Let's see if I can get you a better copy. Why
10 don't you look at this, Mr. Allen.

11 A U. S. Courthouse, this says telephone conversation.

12 Q Don't read it out loud. The question was does
13 that refresh your recollection ~~as to~~ what you told Mr.
14 Doonan?

15 A Some of this I do and some I never heard of before.

16 Q Why don't you tell us, Mr. Allen, what you do
17 recall now telling him?

18 A I remember specifically -- do you want me to read
19 it?

20 Q I don't want you to read from the document.

21 A Paragraph 9 --

22 MR. GOULD: He is being asked about the conver-
23 sation.

24 Q I don't want you to read it because it is not in
25 evidence. I want you now to recall, if you can, what you

1 jge 16

Jerome Allen - cross

2601

2 told Mr. Doonan.

3 A I told him paragraph 9 about Feeney and Berardelli.

4 Q You told him paragraph 9. This, Mr. Allen, is
5 two and a half pages long --

6 A I didn't say that. You didn't give me a chance
7 to finish.

8 THE COURT: I think we will suspend for luncheon.
9 Mr. Allen, with your permission, I would like to say to
10 you that during the luncheon please do yourself and all of
11 us a favor by reading whatever it is that the Government
12 and you keep passing between yourselves.

13 THE WITNESS: This document?

14 THE COURT: Yes, read it before we return.

15 2:15, Mrs. DeBartolla and ladies and gentlemen.

16 (Luncheon recess.)
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2602

AFTERNOON SESSION

2:15 p.m.

(In open court, jury present.)

J E R O M E A L L E N, resumed.

CONTINUED CROSS EXAMINATION

BY MR. SORKIN:

MR. SORKIN: May I proceed, your Honor?

THE COURT: Yes.

Q Mr. Allen, let's go back. You returned January 15, 1974, is that correct?

A Yes, sir.

Q Now, between January 15, 1974 and the time that you decided to move to withdraw your guilty pleas, second or third week of August, how many times did you meet with Mr. Doohan?

A By himself, Mr. Sorkin, or with others?

Q Let's do it by himself first.

A I say ten, twenty times, perhaps a little bit more.

Q Ten or twenty times, perhaps a little bit more.

Now, let's take the number of times you met him with somebody else present, either me or Mr. Carl Bogan of this office or Mr. Drier of the SEC or Mr. John Buckley of this office, anyone else?

1
2 A When I met with Mr. Doonan, Mr. Bogen and Mr.
3 Buckley never interviewed me. They were there but never
4 questioned me.

5 Q Let's take the time that somebody was actually
6 there, and I am including in this, Mr. Allen, law students
7 who you know were working in the office of the U. S.
8 Attorney during this period?

9 A How many times did I meet with people with Mr.
10 Doonan?

11 Q Yes, sir.

12 A I would say about a third of the meetings there
13 were -- there were other people present coming in and out
14 or sitting there.

15 Q A third of the ten or twenty?

16 A Yes. I would say twenty would be a more accurate
17 figure than ten.

18 Q Twenty times you met with Mr. Doonan.

19 How many times, Mr. Allen, in this period of
20 time did you speak to him on the telephone?

21 A He called me on a number -- quite frequently.

22 Q He called you?

23 A Yes.

24 Q How many times did he call you from January 15
25 until August 14?

gawe 4 Jerome Allen - cross

2605

Q A dozen times.

All told would you say that between January 15 and August 15 of 1974 you spoke to Mr. Doonan 20, 28, and perhaps a dozen times on the phone? That's about 60 times.

A On many matters, yes, sir.

Q On many matters?

A Yes, sir.

Q Did you ever volunteer information to him?

A If you could define what volunteer means?

Q Did you ever tell him on the phone something that he didn't ask about first?

A I normally responded to a request for information.

Q Let's take the abnormal time, Mr. Allen.

How many times did you call Mr. Doonan or speak to Mr. Doonan either in the presence of others or by himself or when you called him or he called you and you told him information that he didn't ask you first for?

A I can't recall. I may have.

Q You don't recall in the 60 times any particular instance where you told him information?

A I believe I initially responded to his inquiries. I may have. I'm not sure, Mr. Sorkin.

Q You don't recall. I may have. I don't say no.

1 I may have.

2
3 Q When you responded to his inquiries, were you
4 telling him the truth?

5 A Was I telling him the truth?

6 Q Yes, sir.

7 A I believe I was.

8 Q You believe you were telling him the truth?

9 A On matters that he asked me unrelated to Training.

10 Q But each time he asked you about Training, you
11 lied to him?

12 A I repeated what you asked me to say.

13 Q All right. Let's go into that. You repeated
14 to Mr. Doonan what I told you to say.

15 How many times did Mr. Doonan call you on the
16 phone and ask you about Training?

17 A Most of his calls on the phone were not related to
18 Training, but to activities about my past and others I
19 knew.

20 Q Of the 60 times that you spoke to Mr. Doonan,
21 how many times did it deal with Training With the Pros?

22 A I'm sorry?

23 Q How many times did it deal with Training With the
24 Pros?

25 A How often did he mention training to me?

1 gawe 6

Jerome Allen - cross

2607

2 Q Yes, sir.

3 A I'd say five, six, seven, eight times. You know,
4 I can't give you the specifics.

5 Q Of the 60 times you say only five, six or seven
6 was Training With the Pros?

7 A There may have been more.

8 Q There may have been more.

9 Mr. Allen, when on these five, six, seven or
10 eight times did I tell you what to tell Mr. Doonan?

11 A You outlined the entire structure of the case as
12 you wanted it presented, the moment I got off that airplane.

13 Q So the moment you got off that airplane on
14 January 15 --

15 A I was debriefed.

16 Q You were debriefed and I told you -- by the way,
17 was anyone else present?

18 A After -- the gentleman who arrested me at the
19 airport came to the office with me. Then they left.

20 Q You and I were alone.

21 A Most of the time, yes, sir.

22 Q How about Gerald Feffer, another assistant United
23 States attorney, do you recall him being present --

24 A People come in your office for documents --

25 Q Mr. Allen, this is the night you were arrested?

1 gawe 7

Jerome Allen - cross

2608

2 A Yes, sir.

3 Q This is the evening?

4 A Yes, sir.

5 Q Do you recall Mr. Feffer being there?

6 A I don't remember. I was so shellshocked. I just
7 come out of jail, I hadn't slept for three nights.

8 Q What do you mean shell shocked?

9 A I just come out of six weeks of solitary,
10 I was tired from an eight hour flight. I went from the
11 airplane to your office, I hadn't slept. I don't remember who
12 came in and out other than the gentleman who arrested me.

13 Q You don't remember who was there, but you remember
14 me structuring the entire Training deal to you?

15 A Not the entire, but the highlights.

16 Q The highlights. You remember that?

17 A Yes, sir.

18 Q You are telling this court and this Judge and this
19 jury that eachtime Mr. Doonan called you, I told you to
20 tell him the highlights of the deal?

21 A No, sir.

22 MR. GOULD: I object to the form of the question,
23 your Honor.

24 THE COURT: I will sustain that. Put it over
25 again, Mr. Sorkin.

1 gawe 8

Jerome Allen - cross

2609

2 MR. SORKIN: Yes, your Honor.

3 Q Tell the Judge and the jury, Mr. Allen, what I
4 told you to say to Mr. Doonan on that night when you were
5 arrested?

6 A Well, you didn't say to me tell this to Mr. Doonan.
7 You said, "It is important for you, Allen, that the Govern-
8 ment wins this case. If we win the case we will look upon
9 you and we will recommend leniency.

10 If we loose the case the show is over."

11 That was the primary thrust. "You have been a
12 bad boy, we can name you in other indictments, we can
13 name your wife in an IRS case and we can arrange to see that
14 you receive consecutive sentencing."

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1 gab-1
2 Q Let's stay with this consecutive sentencing.

3 Mr. Allen, how did I explain to you, if I did,
4 how we were going to arrange for you to get consecutive
5 sentences?

6 A You didn't spell out the mechanics involved. You
7 said that your office had the power to influence judgment.

8 Q Judgment or Judges?

9 A Judgment. In other words, the sentencing
10 I would receive you never said you would call a particular
11 Judge. What you said was, "We can see to it that you receive
12 consecutive sentencing as opposed to concurrent."

13 Q Did you ever ask me or Mr. Doonan or any other
14 assistant U.S. Attorney or Mr. Eberhardt how I or another
15 Assistant could arrange for you to get consensive sentences?
16 I am including in that also your lawyer. Did you ask Mr.
17 Bregman that?

18 A I asked you, sir.

19 Q Did you ask your lawyer, Mr. Allen?

20 A Yes.

21 MR. GOULD: He answered. He said he asked you.

22 Q Did you ask your lawyer?

23 A Yes.

24 Q What did Mr. Bregman tell you as to how I could
25 arrange to get consecutive sentences for you?

1 gab-2
2 MR. GOULD: I assume that the witness is informed
3 that his conversations with his counsel at least at this
4 point are privileged.

5 If he wants to answer, he has the right. I
6 don't think counsel should put that to him unless there is
7 some appropriate indication given to him.

8 THE COURT: I am not so sure I agree with that
9 because as I understand the thrust of the question, it is not
10 what he told his lawyer, it is what his lawyer may have
11 volunteered to him.

12 For quite different reasons than have been sug-
13 gested by objecting counsel, I put it to you, Mr. Sorkin:
14 Do you want to get into this really?

15 MR. SORKIN: I do, your Honor. I certainly do.

16 MR. GOULD: I will withdraw the objection.

17 THE COURT: Since I don't know where the conversa-
18 tion took place and I am not sure you do, I wonder. Do you
19 want to get into this?

20 MR. SORKIN: I do, your Honor.

21 THE COURT: Tell me, Mr. Allen, before we get
22 into this, I will have to find out from you.

23 I suppose that under our system it could well
24 be that you might have some kind of client's privilege with
25 respect to anything you offered to tell Mr. Bregman, in

fact, did tell him. Therefore, I want to know: Did you ever have any conversation with him about possible sentence?

THE WITNESS: Yes, your Honor, I did.

THE COURT: Did you ask him, Bregman, about the law on that regard?

THE WITNESS: I related an incident in Mr. Sorkin's office that he said those things happen.

THE COURT: If you want to claim the privilege, which attaches to private conversations between a lawyer and his client or the client relating things to the lawyer, you may. Would you like to claim the privilege?

THE WITNESS: Yes, your Honor.

THE COURT: All right. Fine. We will avoid that then.

MR. SORKIN: Very good, your Honor.

THE COURT: Is there any other advice that anybody wants to render to any of us before we get going here? Now, Mr. Sorkin? You, Mr. Gould? You, sir?

All right, let's go ahead.

Q How long did we meet that night, Mr. Allen, the night you were arrested where I highlighted the Training deal to you?

A I arrived at Kennedy about 4:30. I believe I was in your office about a quarter after 5:00. I think you

1 called a magistrate, Raby, I believe the way his name is
2 spelled R-a-b-y. I think you said that -- you said to me
3 that my wife contrary to what you had agreed to would have
4 to put up her summer home for bail. Beyond that --

5
6 Q How long did we sit there where I highlighted
7 the Training deal to you, on January 15, 1974?

8 A I was dead tired. I believe it was midnight,
9 one o'clock in the morning.

10 Q We were there until midnight, one o'clock in the
11 morning?

12 A I believe so, yes. It may have been 11:00
13 o'clock. I was so groggy, Mr. Sorkin, having not slept on
14 the plane or being nervous in jail, that I can't specifically
15 say midnight or one o'clock.

16 Q We sat there -- your testimony is, Mr. Allen, that
17 we sat there from 5:15 on January 15, 1974, until midnight or
18 1:00 A.M. January 16, 1974?

19 A A little later than 5:15. You did some pre-
20 liminary things first.

21 Q You would say we sat six hours?

22 A Five or six hours.

23 Q No one else was present that night?

24 A People did come in and out of your office.

25 Q At what time?

2 A About 7:00.

3 Q You and I were alone then?

4 A Yes, sir.

5 Q Where did you go, Mr. Allen, after this?

6 A I went home.

7 Q You went home. You say people stopped coming
8 into the office at about 7:00 P.M., is that correct?

9 A 6:30, 7:00, you know --

10 Q Do you remember the people?

11 A No, I don't -- the people who arrested me came
12 to your office.

13 Q That is Mr. Slavinsky? Do you remember his name?

14 A I can recognize him. I can identify the name with
15 the person, yes.

16 Q And Al Gray?

17 A I don't remember what he looks like, Mr. Sorkin.

18 Q Now, Mr. Allen, tell us, please, what I told
19 you as to how I was going to arrange with Judge Carter on
20 the passbook case, Judge Gurfein on the Coatings case, and
21 Judge Tyler on the Training with the Pros case --

22 MR. GOULD: I object to this, your Honor.

23 MR. SORKIN: I would like to finish the question.
24 your Honor.

25 MR. GOULD: It is improper as to form.

1 THE COURT: I think it has gone far enough. I
2 have to agree with Mr. Gould. I think it sounds like a
3 rhetorical question and you don't mean that.
4

5 Q Mr. Allen, you said a little while ago that I told
6 you how I would arrange for consecutive sentence, is that so?

7 A You didn't say how you would. You said you could
8 arrange.

9 Q All right. You knew at the time that you were
10 under three indictments?

11 A That's correct.

12 Q The Blocker case?

13 A Yes, sir.

14 Q With Judge Gurfein?

15 A That's the Coatings case.

16 Q No, the one with Judge Gurfein.

17 A That's right.

18 Q And the Coatings manipulation with Judge Gurfein?

19 A Yes.

20 Q And the passbook case with Judge Carter?

21 A That's right.

22 Q Now, would you tell this Judge and this jury what
23 I told you as to how I could arrange with the Judges for
24 consecutive sentences?

25 A You --

2 MR. GOULD: I object to that, your Honor. He
3 already answered that and said he didn't tell him how.

4 Q Tell us what I said, Mr. Allen.

5 A You said if I didn't cooperate, and cooperation
6 meant taping people which I really balked at -- you said
7 there were ways that consecutive sentencing could be arranged.

8 If I may continue my answer, I was in your
9 office one day when the Judge did call your chambers --

10 Q Which Judge?

11 A Judge Cannella. I heard you mention something
12 about sentencing an individual. I swear to this.

13 Q Judge Cannella called my chambers?

14 A Or his clerk. I was not in the extension.

15 Q Who was the man I spoke to?

16 A You were talking, yes, Judge; no, Judge.

17 Q You are sure that was about a sentencing?

18 A Yes, Mr. Sorkin.

19 Q You are absolutely convinced that that is the
20 way I would arrange for --

21 A I didn't say that. I didn't even hear you say
22 to Judge Cannella consecutive sentences. You were discussing
23 sentencing. You said you would speak to him later. You
24 never told him the mechanics.

25 Q Who was I talking to then?

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A Judge Cannella.

3

Q Judge Cannella personally?

4

A Yes. I wasn't on the extension. I don't know exactly what he said. I am -- obviously I am not accusing him of anything.

7

Q I know you are not accusing Judge Cannella of anything. You heard me talk to Judge Cannella. Thank you. Judge Cannella is a Judge in this courthouse as far as you know?

11

MR. GOULD: Isn't this a long way, your Honor --

12

THE COURT: I don't know why we have to get into this. I must agree, Mr. Sorkin. What does all this prove?

14

Q Mr. Allen, how many times did you testify before the grand jury?

15

16

A On Training or matters related to Training, other matters?

17

18

Q Training.

19

A I don't remember, Mr. Sorkin. I honestly don't remember.

20

21

Q Three times?

22

A I remember going before the grand jury perhaps four, five times. Again, correct me if I am wrong.

23

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Q Mr. Allen, is it your testimony today that on each of those occasions you lied before the grand jury?

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gab-9

Jerome Allen-cross

2618 .

A I repeated what you told me to say.

Q Did you have a script there?

A No, we went over that. You have a blue, green book where you take looseleaf pages in and out.

Q Then I had that blue, green book and I told you what to say to the grand jury?

A What you did was you told me what Mr. D'Onofrio was going to say.

Q Just a second. Where did I tell you what to say before the grand jury?

A In your office.

2 Q Was anyone else present?

3 A Very rarely.

4 Q I excused people before I spoke to you?

5 A Most of your conversations with me -- I once
6 asked you why don't you want my lawyer here --

7 Q Just a second. You have already told us that
8 I asked you not to have your lawyer present. We have been
9 through that. Just tell us now when I spoke to you with
10 my green, blue book as to what to say in the grand jury,
11 when was that?

12 A On many occasions. When someone was in the
13 room --

14 Q No, tell us when. The when, Mr. Allen. Tell me
15 when.

16 A What particular date?

17 Q Yes, sir.

18 A When you were alone with me you constantly referred
19 to testimony in that book. You even told me --

20 Q When, Mr. Allen?

21 A It was at the time when you started debriefing
22 me.

23 Q Is it your testimony that from the time you came
24 back on January 15 I told you not only what to say to Mr.
25 Doonan, but also what to say to the grand jury?

1

2

A What not to say to the grand jury.

3

Q And what not to say?

4

A That is right.

5

6

Q And you committed perjury in front of the grand jury, is that true?

7

MR. GOULD: I object to that.

8

9

10

THE COURT: Sustained as to form. That is a word that has been used heretofore by many people in this trial loosely.

11

12

13

14

I don't want that word used, even though it is true other lawyers have used it. Since Mr. Gould has objected I quite agree with him on this. That is the wrong way to do it.

15

Let me ask you something, Mr. Allen.

16

17

Is it your position that everything you said to the grand jury was not true?

18

THE WITNESS: Not everything, your Honor.

19

THE COURT: Not everything?

20

THE WITNESS: Most things.

21

22

23

THE COURT: But it is your position apparently that everything you said to the grand jury was something that Mr. Sorkin had asked you to say.

24

25

THE WITNESS: To strengthen Mr. D'Onofrio's testimony.

2 THE COURT: I don't know what the purpose was.
3 I am not asking you that. What I am trying to get at here
4 is exactly what your position is. Your position is
5 that Sorkin told you and Allen what to say before the grand
6 jury and you said it?

7 THE WITNESS: Yes, your Honor.

8 THE COURT: You also say, again correct me if I
9 am wrong in my understanding, that nevertheless some of the
10 things you said to the grand jury were true but some were
11 not?

12 THE WITNESS: Yes, your Honor.

13 THE COURT: Go ahead.

14 Q Now, Mr. Allen, you didn't tell the grand jury
15 the truth -- withdrawn.

16 Tell us why, Mr. Allen, you didn't tell the truth
17 to the grand jury?

18 MR. GOULD: I object to this. There is a way
19 to do this.

20 THE COURT: Yes, from your own point of view --
21 I am sorry, Mr. Sorkin, but this is misleading from your
22 point of view.

23 Q When you went before the grand jury you just
24 told Judge Tyler that some things were true and some things
25 were false. Do you remember what you said that was true?

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MR. GOULD: I object to this, your Honor.
This is not the way to do it. This is a hopeless way of
confronting a men with his testimony. I suggest we do it
the orthodox way if counsel wants to pursue this.

THE COURT: I hate to keep stopping this
because I do want to give Government counsel some latitude
here under these circumstances. But perhaps you might do
well to ponder that. There is a way of doing this.

MR. SORKIN: I am trying to deal with areas.
Were there any areas, Mr. Allen, that you testified about
truthfully before the grand jury, before we get to specific
answers and questions?

MR. GOULD: I stand on my objection.

THE COURT: I am going to overrule that at
least in respect to this last question. Do you follow what
he means?

THE WITNESS: Yes, I do.

There were areas where I told the truth as I
knew it.

Q Do you remember what areas they were, sir?

A No, sir, because you asked quite a few questions
on various matters.

Q Do you recall being asked any question other than
with Training With the Pros?

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2 A Yes, I believe you asked me about whether or not
3 Mr.Stoller and Mr.Frank had prevailed upon me to be a
4 fugitive, whether they had prevailed upon me to write
5 letters, the same things we discussed before.

6 Q Was that a lie or was it truthful?

7 MR. GOULD: I am sorry, your Honor, I have to
8 object to that.

9 MR. SORKIN: I withdraw the question.

10 Q Mr. Allen, you are seeking at this time to with-
11 draw your pleas of guilty?

12 A Not on the Eberhardt case, just your case.

13 Q Because Mr.Eberhardt didn't threaten you or
14 didn't say they would indict you on frivolous indictments
15 or plant narcotics?

16 A And he never went over the testimony with me.

17 Q And he never went over the testimony with you.
18 When you went before the grand jury you were
19 afraid of me and Mr. Doonan because we could arrange for
20 consecutive sentences?

21 A I didn't say he could arrange.

22 Q I could?

23 A Yes.

24 Q You didn't tell the truth on specific occasions
25 before the grand jury because you were afraid?

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A Yes.

Q You were afraid of a long jail term?

A And other things that I think I can make public if I were asked.

Q Now, Mr. Allen, isn't it true that you are seeking to vacate your guilty plea now because you don't want to face a long jail term?

A No, sir.

MR. GOULD: I object to that.

THE WITNESS: I face a greater jail sentence --

MR. GOULD: Please, Mr. Allen.

I really must object to the question as to its form, your Honor.

THE COURT: I am going to sustain it as to form only.

Q Are you moving to withdraw your guilty plea at this time, Mr. Allen, because you are facing 15 years in prison and you don't want to go to jail?

MR. GOULD: Same objection as to the form of the question.

THE COURT: I am going to allow this. Is this one of the reasons?

MR. GOULD: Isn't it appropriate, your Honor, for him to ask the witness why he wants to withdraw his plea?

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THE COURT: Not under these circumstances.
With all due respect, Mr. Gould, I made my point clear,
exception to you.

THE WITNESS: To answer your question --

MR. SORKIN: Would you read back the question?

THE COURT: Please, no.

THE WITNESS: I know the question.

THE COURT: Go ahead.

A The primary reason for me to move to vacate my
plea is that I am not guilty. I know in confronting you I
face a greater sentence not a lesser one. If I said what you
wanted me to say I get off easy, quoting you.

Q Well --

MR. GOULD: Let him finish.

A That is essentially it.

Q Do you remember pleading guilty before Judge
Tyler in this case, Mr. Allen?

A Yes, I did.

Q Do you remember Judge Tyler asking you this ques-
tion and you giving this answer:

"Q Now, conversely has anybody put pressure upon
you or used force against you to make you come in here this
morning and plead guilty against your will?

"A No, your Honor."

2 Do you recall Judge Tyler asking you that question
3 and you giving that answer, just yes or no?

4 A Yes.

5 Q Was your lawyer Eric Bregman standing right next
6 to you when you gave this statement to Judge Tyler?

7 A Yes, he was.

8 Q And you are saying here now that that statement
9 to Judge Tyler is a lie?

10 A Yes.

11 Q Let's move on. Do you remember Judge Tyler
12 saying this to you:

13 "Q But let me say to you, Mr. Allen, that though I
14 of course don't wish to suggest that there is anything wrong
15 about this agreement which you have entered into with
16 the United States Attorney's office, I am sure you have also
17 been told however that the United States Attorney's office
18 will not decide any sentence that might be meted out here.
19 I will certainly listen to Mr. Sorkin or anybody else who wishes
20 to bring to my attention on the Government's behalf any
21 favorable factors such as help in other prosecutions or what-
22 ever. But in the last analysis the sentencing decision is
23 exclusively that of this Court.

24 "A Yes, your Honor, and I just want to, if I may,
25 make one more statement for the record. I was in Switzerland

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Jerome Allen-cross

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and I waived extradition and came back to face the charges
voluntarily."

Do you remember being asked that question by
Judge Tyler and giving that answer?

A About extradition, yes.

Q No, about "Yes, your Honor", you know it is the Judge and exclusively the Judge and the Judge alone that metes out sentences and not the U. S. attorney?

A That is the answer I gave the Judge.

Q And your lawyer was standing right next to you?

A That is correct.

Q And this was on March 5, 1974?

A The day I signed the agreement, yes.

THE COURT: Do I understand that you are telling us that that was not true either?

THE WITNESS: I said I signed the agreement formerly. I don't understand you.

THE COURT: Your answer is to my question is, they weren't true?

THE WITNESS: Because he threatened me before --

THE COURT: I didn't ask you why. I simply want to know. Now you are telling me that what you said on March 5 in that courtroom upstairs was not true, right?

THE WITNESS: Yes, your Honor.

Q Mr. Allen, is this the first time that you have told Judge Tyler that what you said on March 5, 1974 was not true?

A I had never been asked before.

MR. GOULD: If your Honor please, do we really

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Jerome Allen - cross

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want to get into that? That will open a whole new avenue.

THE COURT: I don't know what you mean by that,
Mr. Gould.

MR. GOULD: I mean the application, the motion.

THE COURT: I know but you made it sound like
something else.

MR. GOULD: I didn't mean to. I just want to
point out that my objection is based on the fact --

THE COURT: For quite different reasons than
Mr. Gould apparently has in his mind I think the form is,
again, not what you really want to ask.

Q Prior to this question being put to you by Judge
Tyler did you ever tell Judge Tyler that what you told him in
open court on March 5 was not true?

A No, I did not.

Q On March 6 you pleaded guilty, Mr. Allen, to the
Coatings case before Judge Gurfein, didn't you?

A That is correct.

Q And you were asked questions by Judge Gurfein?

A That is correct, yes.

Q Were you telling the truth to Judge Gurfein?

A No.

Q Had you gone back to Judge Gurfein to tell him that
you lied to him?

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MR. GOULD: I object to that. There is no reason for him to go back.

THE COURT: I didn't say there was, Mr. Gould.

MR. GOULD: I think it is an improper question. That is the basis of my objection.

THE COURT: I am sorry but I am going to permit this. I can agree with objecting counsel that I can think of a better way of putting it too but essentially it is an appropriate question.

In other words, Mr. Allen, have you ever brought to the attention of Judge Gurfein in any way --

THE WITNESS: Those letters I wrote last August.

THE COURT: Did you say in there what you said to him?

THE WITNESS: The letter to Judge Gurfein said that the sham of saying I was not threatened is indeed a sham and I wrote that long ago.

THE COURT: You wrote it after you pleaded guilty?

THE WITNESS: I wrote it before I pleaded guilty. I wrote it in October, your Honor.

THE COURT: So that the question still remains, have you since you pled guilty, not before but since, do you get it?

THE WITNESS: I have not spoken to Judge Gurfein.

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Jerome Allen - cross

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2 THE COURT: Have you written him a letter, spoken
3 to him or anything of that kind?

4 THE WITNESS: No, your Honor.

5 THE COURT: All right.

6 Q Now, on March 4, did you plead guilty before
7 Judge Carter?

8 A Yes, I did.

9 Q And you were asked questions by Judge Carter as
10 to whether your plea was voluntary?

11 A Yes.

12 Q And Mr. Eberhart was there?

13 A Yes.

14 Q Did you tell Judge Carter that any one of the
15 Government was threatening you?

16 A Everything I told Judge Carter was the truth
17 because Eberhart never threatened me.

18 Q Did Judge Carter ask you if you were being
19 pressured to enter your guilty plea, sir?

20 A I took it to mean --

21 Q Yes or no?

22 A He asked me if I had been threatened and I thought
23 he meant by Eberhart because that was the case.

24 Q You signed an agreement, Mr. Allen, didn't you --

25 THE COURT: Incidentally, Mr. Flannery, I found

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Jerome Allen - cross

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2 in checking my files here this noontime here in the court-
3 room that I have the minutes which Judge Carter apparently
4 sent me down for other reasons in a case called United
5 States versus Jerry Allen et al, 73 Cr. 471.

6 The appearances before Judge Carter were Michael
7 C. Eberhard for the Government, Mr. Eric Bregman for Mr.
8 Allen.

9 I think it may be a plea transcript, so that you
10 and defense counsel if need be, would want to see this,
11 here it is.

12 MR. SORKIN: Thank you, your Honor.

13 MR. FLANNERY: Thank you, your Honor.

14 Q Mr. Allen, you were asked this question or do you
15 recall being asked this question by Judge Carter.

16 "Q Are you pleading guilty because of any pro-
17 mises that your lawyer has made to you?

18 "A No, sir, I just want to clean the record.

19 "Q Any promises that Mr. Eberhard made to you
20 or your counsel for the Government that has induced you to
21 plead guilty?

22 "A No, your Honor.

23 "Q Have you been threatened in any way to induce
24 you to plead?

25 "A No, your Honor."

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Do you recall being asked those questions by
Judge Carter and giving those answers?

A Yes, relating to that case, yes.

Q Relating to that case.

You signed an agreement with the Government,
didn't you, on March 5, 1974?

A It was formalized then.

Q But there had been a verbal agreement prior to
this time?

A For the moment I remember, yes.

Q Didn't the verbal agreement include all three
indictments?

A Yes.

MR. SORKIN: May we have this marked, please.

xx

(Government's Exhibit 116 marked for identifi-
cation.)

Q Mr. Allen,, before we go into this, was it your
understanding, Mr. Allen, that the Eberhard indictment,
which is the Passbook case, the Coatings case, and the
Training With the Pros case, were a package deal for you,
three indictments or nothing?

A I don't know what you mean by nothing?

Q Didn't you agree to plead guilty to three indict-
ments?

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Jerome Allen - cross

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2 A And I did, yes.

3 Q And the Government would not take any less than
4 three and we agreed to nolle the fourth indictment against
5 you?

6 A That's correct.

7 Q Mr. Allen, why don't you look at this memorandum
8 of an agreement and I ask you, sir, do you recall seeing
9 that?

10 A That is the one I signed, yes, Mr. Sorkin.

11 Q Are those your initials?

12 A J. R. A., yes, it is my initials and my signa-
13 ture.

14 MR. SORKIN: Your Honor, we offer 116 in evi-
15 dence.

16 MR. GOULD: I have no objection.

17 MR. FELDSHUH: No objections, your Honor.

xx 18 (Government's Exhibits 116 received in evidence.)

19 MR. SORKIN: May I read this to the jury, your
20 Honor?

21 THE COURT: Yes.

xx 22 (Government's Exhibit 116 in evidence was read
23 to the jury by Mr. Sorkin at this point.)

24 Q Mr. Allen, when you signed this agreement, did
25 you tell Mr. Bregman that the U. S. Attorney's office

through Mr. Doonan and myself were threatening you?

MR. GOULD: I object to that, your Honor.

We have been all over this subject. What difference does it make whether he did or not?

THE COURT: Again, I am going to sustain the objection for quite a different reason. Do you want to ask him particular in respect of this document?

MR. SORKIN: Yes, at the time he signed this agreement, did you tell Mr. Bregman that you had been threatened and were continuing to be threatened by the United States Attorney's Office? Yes or no?

A Yes, I told him I was being threatened before I signed that.

Q You told him you were being threatened. Where did you tell Mr. Bregman that you were being threatened?

A At his office.

Q What did you tell Mr. Bregman?

A I said --

MR. GOULD: I object. I don't see this is proper cross examination at this stage.

THE COURT: I agree what he told his lawyer in his office is not a proper question, sustained.

Q Yet, Mr. Allen, after you signed this agreement on the next day you pleaded guilty in the Coatings case,

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Jerome Allen - cross

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isn't that correct?

MR. GOULD: That is objected to as to its form.
It is argumentative and --

MR. SORKIN: Withdrawn.

Q The next day, Mr. Allen, on March 6, you pleaded
guilty before Judge Gurfein to the Coatings indictment.

A Yes.

Q You told Judge Gurfein, did you not, that your
plea was voluntary and there was no pressure being put on
you?

MR. GOULD: I object to that as having been
asked and answered.

THE COURT: Agreed.

Q Mr. Allen, I think you were asked yesterday
about a conversation with James Feeney in Switzerland in the
fall of 1973. Do you recall being asked questions about
that?

A Yes, sir.

Q Was there any conversation, Mr. Allen, with Mr.
Feeney where the term swimming pool came up?

A Yes.

1 Q Where was that?

2 A Jim and I talked about living in the Bahamas,
3 Panama, where I had been many times.

4 Q Was anyone else present, Mr. Allen, when you
5 mentioned the swimming pool?

6 A No, just Jim and myself.

7 Q Was the swimming pool a code name just between
8 you and Mr. Feeney?

9 A No, I told him I was starting a market letter
10 in the Bahamas.

11 Q Was the code name, Mr. Allen, swimming pool just
12 a name between you and Mr. Feeney or did you tell others that
13 you called the Bahamas the swimming pool?

14 MR. GOULD: I object to this, your Honor. This
15 is out of this case as I understand it. I never asked
16 any questions along these lines because I assumed it was
17 out of the case.

18 THE COURT: True you did not ask any questions
19 along this line specifically. I'm going to sustain the
20 objection on quite different grounds again, however. I
21 really think Mr. Sorkin --

22 MR. SORKIN: May I be heard on that, your Honor?

23 THE COURT: You don't have to be heard. Just
24 bear with me and I think you will be pleased to find this
25

2 doesn't mean I'm cutting you off the subject matter. I
3 think the question is misleading by its very terms. You
4 baffle me because I don't know why you want to put it in that
5 form from your adversary point of view.

6 It is neither here nor there. The question is
7 using.

8 Q Mr. Allen, did you mention the term swimming
9 pool to anyone else other than Mr. Feeney?

10 MR. GOULD: I object to it.

11 THE COURT: Are we back in the U. S. Attorney's
12 office that you are asking him this?

13 MR. SORKIN: No.

14 THE COURT: Or in the Nova Park?

15 We have heard all about the Nova Park on direct.
16 I agree with you. That is one reason I want you to get into
17 this. I would like to get moored down to something here.

18 MR. SORKIN: I thought I said in the fall of 1973
19 when he had a conversation with Mr. Feeney. I am sorry.

20 THE COURT: Perhaps you might assume that the jury
21 and I don't have total recall of what you are up to at one
22 given moment or another. Clarification would help if we could
23 get it.

24 Q Did you meet Mr. Feeney at the hotel Nova Park
25 in Zurich, Switzerland in the fall of 1973?

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Jerome Allen - cross

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THE COURT: We know that.

MR. GOULD: Asked and answered, your Honor.

THE COURT: Right. That is my point. Is it
at that conversation?

MR. SORKIN: Yes.

Q In that conversation with Mr. Feeney did the term
swimming pool come up?

A Yes.

Q Was anyone else present?

A No.

Q No one else was present.

After, Mr. Allen, you had the conversation with
Mr. Feeney at the hotel Nova Park, did you mention the
swimming pool to anyone else?

MR. GOULD: That's what I object to.

A Yes, I mentioned it --

MR. GOULD: Please.

THE COURT: The lawyer Gould is objecting. He is
entitled to object, Mr. Allen. You have been told that ten
times. Please.

THE WITNESS: I'm sorry.

THE COURT: He's entitled to his consideration,
too.

Again, Mr. Sorkin, may I suggest that that's so

open ended it helps us not at all. I will permit you to lead at least so you can put us in the Western Hemisphere or Eastern or are we in New York, are we in one of these hotels in the city of Zurich, are we talking about Doonan, Sorkin? Where are we?

Q After the meeting at the Hotel Nova Park, did you mention the term swimming pool to anyone else at any time, Mr. Allen?

MR. GOULD: That's the same question --

THE COURT: It certainly is. It could include his wife, his children.

MR. SORKIN: That is what I am asking, your Honor.

THE COURT: I don't want you to get into that. I think to this extent Mr. Gould is quite correct. We have to have some limitations.

Q Did you have a conversation with Mr. Stoller where you mentioned the term swimming pool?

MR. GOULD: I object to that, your Honor. I ask for a direction to the jury to disregard the question. I ask for an admonition to Mr. Sorkin with respect to this subject in view of your Honor's ruling on these counts.

I'll say no more about it at the moment in the presence of the jury.

1 THE COURT: I'm inclined to agree with that because
2 of my rulings on the so-called second indictment. I don't
3 see why we get into this.

4 MR. SORKIN: May I please be heard on this point,
5 your Honor.

6 THE COURT: Of course you can be heard.

7 MR. GOULD: If there's going to be any discussion
8 in front of the jury, I'll have to move for a mistrial and
9 I would hate to do it.

10 THE COURT: Please, gentlemen. If you would
11 only listen once in a while, you might have your little
12 problems answered. As I was about to say, if we are going
13 to get into this, we will take the recess as far as the
14 jury is concerned.

15 Ladies and gentlemen, ten minutes.

16 (Jury absent.)

17 THE COURT: Gentlemen, once again we are doing
18 what we did yesterday, we did this morning. I remind you
19 that I am not here to be lectured to by either one of you.
20 I do not consider you to be so infinitely superior as you are
21 patronizing attitude suggests. You don't mean to be
22 patronizing. It is so unnecessary.

23 MR. GOULD: I didn't mean to be patronizing. I'm
24 trying to protect the record against what I think is a very
25

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2 improper --

3 THE COURT: Every time I'm trying to protect you
4 and your record, you are putting --

5 MR. GOULD: I'm sure you are, your Honor.

6 THE COURT: If you and Mr.Sorkin would reflect
7 that you do more talking while I'm trying to respond to your
8 legitimate objections, we would get along a lot faster.
9 I was right in the process of saying to Mr.Sorkin, of course
10 you may be heard, but you are talking for me and I don't
11 like it.

12 MR. GOULD: I apologize, your Honor. I was
13 afraid that if I didn't move in a timely manner, there would
14 be irreparable damage.

15 THE COURT: If you accept the premise that I am
16 sitting up here comatose or worse, I go along with that. I
17 don't think I am.

18 MR. GOULD: I don't think you are either, sir.

19 THE COURT: Please have faith, will you.

20 MR. GOULD: Yes, sir. My experience, I have only
21 been penalized for having faith.

22 THE COURT: If you wish to assume the worse, you
23 will continue to hear from me accordingly.

24 MR.GOULD: I have to sustain that. Nevertheless,
25 I react very quickly on these things. I apologize if I

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interrupted the Court.

THE COURT: I accept your apology. I had to say this about six times today. I don't think it is necessary much further. Be that as it may be, you want to be heard, Mr. Sorkin. The jury has gone. What is it you want to say.

MR. SORKIN: Your Honor, I think it is clear that we are entitled to impeach Mr. Allen with respect to that tape. We have got a tape where he mentions the swimming pool. It goes to his credibility. No one is suggesting in one instance that we intend to retry the obstruction case.

However, Mr. Gould did ask about conversations in that hotel Nova Park and Mr. Allen, if he sits here and denies it, he's committing a fraud on this court because he does mention the swimming pool to Mr. Stoller. We are entitled to impeach him with that.

THE COURT: All right.

Yes, sir.

MR. GOULD: I don't think it impeaches him on anything that is still in the case. I did not ask him about any parts of the conversation which related to these abortive obstruction counts. I deliberately refrained from approaching that area.

THE COURT: I quite agree you did pretty well do that. However, we did get into Nova Park. I don't

1 think the question is that simplistic.

2 I think the Government is entitled to latitude.
3 It has nothing to do with the obstruction counts as such.
4 You see, the Government is in this position. They have had
5 their obstruction counts dismissed, which I think was
6 appropriate. Nevertheless, they have been dismissed. Not
7 only that, the Government is in the position of having
8 this man suddenly fire his lawyer a few days before this
9 trial was scheduled to begin.

10 Third of all, I might point out that it is an
11 extraordinary set of circumstances, and not quite just for
12 the reasons that the defense think they are, that are going
13 on in this case. I think the Government is entitled to this
14 latitude under these unique circumstances.

15 MR. GOULD: To what extent will your Honor permit
16 him to go into this? These are not conversations that he's
17 asking about with Stoller and Frank. He started off by
18 asking --

19 THE COURT: I agree with you. That is my point,
20 Mr. Gould. You see, one of the reasons I am having my dif-
21 ficulties with you, quite frankly, is I sustain you up to the
22 hilt and then you turn around and clip me in a patronizing
23 manner when I don't serve your purposes at a given moment.

24 MR. GOULD: I don't know why your Honor thinks
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Jerome Allen - cross

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I'm being patronizing at all. I am not. I certainly don't intend to be. I have the highest respect for your Honor as I have evidenced many times.

THE COURT: In front of this jury you suddenly seem to feel differently.

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2 MR. GOULD: No, your Honor. All I am doing
3 in front of this jury is making what I think are appropriate
4 objections in the face of great difficulties.

5 THE COURT: In that context I share and sympathize
6 with your view. This has not been easy for you, it hasn't
7 been easy for Mr. Sorkin. There I agree with you. I don't
8 intend to belabor it. I get furious when I am trying to
9 make a ruling right on the money you are arguing about, and
10 then suddenly you give me a little bit of Glockenspiel
11 lecture which I don't particularly care for even though
12 I know now you didn't intend it.

13 Let's go back.

14 The ruling is, Mr. Sorkin, that I will permit
15 you, but Mr. Gould was on quite firm ground because your
16 questions from your own point of view were virtually
17 unintelligible. I was equally baffled as was Mr. Gould.
18 I insist that you make it clear what you are talking about.

19 I will allow it because I think it is only
20 fair in these unusual circumstances. This is not something
21 that I have ever seen in a courtroom either. Just like
22 Mr. Gould, I am in the same posture. I have never seen
23 anything like this case.

24 MR. GOULD: Would your Honor consider a sugges-
25 tion from me because I am disturbed about this area we are

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2 entering? I think it is going to lead to trouble and
3 confusion with all respect and I think that the jury is
4 entitled to understand if he is going to pursue this line,
5 it is only in an effort to impeach the witness and not
6 as indicative of any guilt on the part of either of the
7 defendants.

8 THE COURT: Mr. Gould, may I suggest to you
9 that any worries about their guilt under those counts is
10 fatuous. The Court has dismissed those counts. How
11 can people be convicted of things they have already been
12 deemed acquitted for?

13 MR. GOULD: That is why I am concerned because
14 there is a spillover from this kind of questioning.

15 THE COURT: I would be glad to give the jury
16 an instruction that I am only allowing this for purposes
17 of allowing Government counsel to get at the credibility
18 of the witness in this line. I would be glad to do that.

19 MR. GOULD: I would be very grateful if your
20 Honor would do that. I think that is as much as anybody
21 can do to cure the danger in the situation.

22 THE COURT: I would be glad to do it. I
23 don't even regard it as dangerous because of two things
24 that are going to happen before this trial is over, and
25 that is that there will be another chance for the Judge to

1 gab-3

2 explain that credibility is an important issue and the
3 reason why I am allowing this.

4 MR. SORKIN: I would like to say one other
5 thing, your Honor, with respect to the spillover. Your
6 Honor will recall --

7 THE COURT: I don't want to hear about spill-
8 over. You just won your point. Don't argue it. I tell
9 you, you fellow baffle me more and more as every day goes
10 by.

11 You act as though you are talking to yourselves
12 and not even God nor I think either one of you are quite
13 that way normally.

14 Now, please. We will take a few more minutes
15 and then we will go along.

16 MR. FELDSHUH: For the record, your Honor, I
17 just want to join with Mr. Gould --

18 THE COURT: You want to join with Mr. Gould
19 in what?

20 MR. FELDSHUH: With his comments with regard to
21 the prejudicial area that we are now going into --

22 THE COURT: With regard to what?

23 MR. FELDSHUH: With regard to mentioning of
24 swimming pools and some other name that was used as epithet-
25 ically under the obstruction indictment, your Honor.

1 gab-4

2 THE COURT: Mr. Feldshuh, maybe you didn't
3 hear all this discussion. It has nothing to do with either
4 you or your client as I see it.

5 MR. FELDSHUH: I hope so.

6 If it should --

7 THE COURT: Exception to you for whatever it is worth.

8 MR. FELDSHUH: Thank you.

9 I have one other little housekeeping problem,
10 your Honor.

11 THE COURT: I don't think either Mr. Sorkin
12 or Mr. Gould thought that one was a housekeeping problem.

13 MR. FELDSHUH: No, I want to talk about a witness
14 that I have here now. I thought perhaps with the consent
15 of counsel we might bring her on. This has to do with
16 the Herzfeld situation, your Honor. You remember, your
17 Honor, the other day they came forward with some material,
18 Brady material with regard to a telephone conversation.
19 Your Honor will also recall that Mr. Sorkin indicated
20 that he would stipulate that if this lady were recalled,
21 she would testify in a certain way. We have been asking
22 Mr. Sorkin to stipulate for some considerable amount of
23 time, and up to this moment we have been unable to
24 agree upon the stipulation.

25 THE COURT: That was clear last evening.

1 gab-5

2 MR. FELDSHUH: Right. We do have the lady
3 here now. We are ready to go forward with her. We brought
4 her up from Florida. I thought perhaps we could have her
5 on and let her go.

6 THE COURT: If Mr. Gould and Mr. Sorkin are
7 agreeable, that is fine with me. I am not going to force
8 the issue.

9 MR. SORKIN: Your Honor, may I say that I told
10 Mr. Feldshuh at the break we will stipulate on this. I
11 haven't varied. I would just like the opportunity to devote
12 more of my attention, which I think is relevant at this
13 time, to Mr. Allen's cross and then after we finish the
14 cross, we will stipulate to Miss Herzfeld.

15 THE COURT: There is only one problem. I
16 sympathize with you and I want to protect you from that
17 pressure except for one thing, and this is what mystified
18 me throughout the trial.

19 We have all these supernumeraries sitting in
20 this room but nobody seems to be able to get anything done.
21 Can't Mr. Flannery and Mr. Quail, or whatever his name is,
22 work this out for your office?

23 MR. SORKIN: I am sure they can. I haven't
24 had time to sit down with Mr. Flannery because I have been
25 busy with Mr. Allen's cross and getting ready. We will

1 gab-6

2 do that. I would like to have the opportunity to talk to
3 Mr. Flannery about Mrs. Herzfeld. When we finish Allen's
4 cross --

5 MR. FELDSHUH: Here is the extent of the stipu-
6 lation. It is seven lines.

7 MR. SORKIN: Your Honor, it is such an immateria
8 and irrelevant thing. We said we would stipulate to it.
9 It is a question of a few lines.

10 THE COURT: All right, gentlemen. I should
11 have learned --

12 MR. GOULD: I will state to your Honor now
13 if it isn't done before four o'clock today, I will not
14 stipulate. I would want the witness back. I think this
15 woman is the Government's responsibility. She was their
16 witness and I will not wait until after four o'clock today
17 to stipulate.

18 THE COURT: I tell you --

19 MR. GOULD: I think there are enough people
20 here who can handle this without Mr. Sorkin pleading about
21 this dreadful distraction of a two-minute stipulation. I
22 think that is --

23 THE COURT: You see --

24 MR. GOULD: I will advise the Court right now,
25 under no circumstances will I stipulate to this woman's

1 gab-7

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2 testimony --

3 THE COURT: You don't have to stipulate, period.

4 MR. GOULD: That is right.

5 THE COURT: Lurking in all of this rhetoric
6 is what I was trying to say a moment ago, and I agree with
7 Mr. Gould on this and Mr. Feldshuh. It seems to me idiotic
8 that the Government can't through all these other people
9 who are just sitting here with bemused looks on their
10 faces day after day, why can't they do some work on this.
11 It is not my job to tell the U. S. Attorneys how to work.
12 I am struck by the fact we have all these people here. You
13 are the only one that ever seems to do anything. I feel
14 for you. I don't want you to be involved. Can't Mr.
15 Flannery work this out with somebody?

16 MR. SORKIN: With all respect, your Honor, Mr.
17 Doonan and Mr. Flannery have been working. I am sure Mr.
18 Flannery can work it out.,

19 THE COURT: They are not working while they are
20 sitting here in this courtroom.

21 MR. SORKIN: I understand that, your Honor.

22 THE COURT: I have to look at them and they have
23 to look at me. It is too bad, but I can tell they are not
24 doing anything.

25 MR. GOULD: May I complicate your Honor's

1 gab-8

2 problems?

3 I am prepared to stipulate, your Honor, that if
4 the witness Marilyn Herzfeld were recalled she should
5 testify that with respect to Government Exhibit 4, the letter
6 of October 17, 1968, the original of that letter was in her
7 possession up to and including the year 1972, that some time
8 in the year 1972 she destroyed that letter along with other
9 documents relating to Training With the Pros, that when she
10 destroyed that letter she did not discuss it, mention it
11 or hear from anybody, any of the defendants in this case.

12 If that stipulation is accepted by the Government
13 before four o'clock today, I will stand on it.

14 If it is not accepted by them, I think it is
15 the Government's problem to bring the woman back.

16 THE COURT: Mr. Gould, your stipulation has been
17 recounted before. It has been clearly made. I agree
18 that I don't see why we have to have further delay. Perhaps
19 the only way of putting it, Mr. Sorkin, is to say since
20 counsel doesn't have to stipulate if he doesn't want to,
21 you are on notice that you may have to keep this woman here.

22 MR. SORKIN: Your Honor, we are going to stipu-
23 late. I am looking at it right now.

24 THE COURT: I think we ought to --

25 MR. SORKIN: I am looking at it right now, your

1 gab-9 Jerome Allen-cross

2 Honor. We are going to get it.

3 (Recess.)

4 (In open court; jury present.)

5 THE COURT: Mr. Sorkin, may I suggest that you
6 put the question again so that the jury is well-advised.

7 Q Mr. Allen, am I correct that you had a conversa-
8 tion at the hotel Nova Park in Zurich, Switzerland, in
9 the fall of 1973, with Mr. James Feeney?

10 A Yes, I had a conversation.

End 3B

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Q And during that conversation am I correct that the term "swimming pool" was discussed?

A Yes, sir.

Q Was anyone else present?

A No, sir.

Q After this meeting at the Hotel Nova Park, Mr. Allen, did you mention the term swimming pool to Mr. Stoller at any time?

MR. GOULD: That is what I object to, your Honor.

THE COURT: Yes, and I am overruling the objection to that. However, in so doing let me explain to you, ladies and gentlemen of the jury, what is going on. As you know, the Court dismissed the so-called obstruction of justice counts which were three in number in the second indictment at the end of the Government's case. Originally this material came in basically under these counts, the conversations at the Nova Park which you have heard many times about, and so on and so on. However, for quite different reasons I am allowing Mr. Sorkin to get into this to test the credibility of the witness and attack it as he sees fit on cross-examination along this line.

Now you all understand that those counts are out of the case so that in that sense this type of thing is

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2 no longer relevant. I deem it relevant, however, for
3 purposes of the credibility of this witness and perhaps
4 others in the case and that is why I am permitting it, and
5 only the reason I am permitting it as I will no doubt
6 have occasion to remind you of later.

7 Mr. Sorkin, go ahead.

8 Q Did you mention it to Mr. Stoller, at any time?

9 A Yes, I did.

10 Q When was that for the first time?

11 MR. GOULD: I object to anything further or
12 any further treatment of this subject.

13 THE COURT: No, sir, I disagree for the same
14 reasons. Go ahead.

15 MR. GOULD: If your Honor please, if the witness
16 said he didn't mention it to Stoller how possibly could
17 the content of a conversation between him and Stoller go
18 to his credibility on that point?

19 THE COURT: Mr. Gould, again I would suggest
20 I don't want to get into detailed argument with you for
21 reasons which you correctly argued a few moments ago
22 before the recess. Suffice it to say within certain limits
23 which I have clearly in mind, I think this is permissible,
24 without however getting into a lot of detail, scatological
25 or otherwise.

1 Do you follow me?

2 MR. GOULD: Certainly.

3 THE COURT: Go ahead.

4 Q When did you first mention swimming pool to Mr.
5 Stoller?

6 THE COURT: Just the date, sir, when?

7 THE WITNESS: I mentioned the swimming pool
8 to Phil over two or three years ago when I was in Panama.

9 Q Did you mention the swimming pool to Mr. Stoller
10 after your meeting with Mr. Feeney in the fall of '73?

11 A I may have, I don't recollect. I don't remember
12 precisely.

13 Q You don't remember mentioning the swimming pool?

14 A I said I may have, I didn't say I didn't.

15 Q I am sorry, I misunderstood you.

16 Let me go back for just a moment, Mr. Allen, and
17 we will return to this in a little while.

18 Tell me, the Judge, the jury and defense counsel,
19 the words that I used on January 15, 1974, when I told
20 you about structuring the Training deal. I want the words
21 that I used, Mr. Allen.

22 A How can I repeat verbatim what you said? I can
23 give you the substance of it.

24 Q Tell me the substance.

25

1 qb-4

Jerome Allen-cross

2 A The substance of your conversation was that I
3 was in extreme trouble. That I was named in three indict-
4 ments or four --

5 Q I don't mean to interrupt, but you testified
6 on this.

7 A You asked me what I said.

8 Q I am asking you what I told you to say about
9 Training.

10 MR. GOULD: That is a different question, isn't
11 it, your Honor? He was asked for the substance of all
12 conversations. I have no objection to its being limited
13 but if it is going to be limited, the record should show
14 that it is limited.

15 Q Go ahead, Mr. Allen. I thought it was asked
16 before and answered. I want from you now just what I
17 supposedly told you about the Training With the Pros and
18 what you were supposed to say about Training.

19 A You told me that the Government -- let me start
20 again. You told me you were developing a case to prove
21 that an old antagonist of yours, Marty Frank, who legally
22 made a jackass of yourself before the SEC --

23 Q Sir --

24 MR. GOULD: He asked for the conversation and he
25 is getting it.

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Jerome Allen-cross

MR. SORKIN: I don't think this is responsive. I want to know what he was told to say about the Training deal. I thought I put that to him.

MR. GOULD: He was asked for the substance of his conversation with Mr. Sorkin.

MR. SORKIN: I disagree.

MR. GOULD: Let's hear the question before we castigate the witness.

THE COURT: I agree we shant castigate the witness. That is unnecessary for the moment. I do think we ought to have it from you unequivocally, what is it you want? Do you want the conversation he had with you or do you want him to say something else?

If so, let's have it clear so that Mr. Gould follows it, Mr. Allen follows it, I follow it, et cetera, et cetera.

Q Mr. Allen, tell us what I told you to say about Training With the Pros.

A You told me that you wanted to give evidence based upon Mr. D'Onofrio's testimony to prove in your eyes and Mr. D'Onofrio's eyes that Mr. Stoller, Mr. Frank, and I manipulated the stock based upon a meeting that you claim took place which I denied took place in June because I couldn't have been there. And you said, "It is

1 qb-6

Jerome Allen-cross

2 in your interest if we win this case because if we win this
3 case we feel better towards witnesses." And I said, "What
4 is it specifically you want to know?"

5 And you opened a book. I said to you, as I
6 recall, "Who will be your witnesses?"

7 And you said you have Mr. Bonavia as a witness.
8 You would have Mr. D'Onofrio as your primary witness. You
9 mentioned some other people. I don't believe you said you
10 would have Mr. Feeney as a witness.

11 Q What did I tell you again to say about Training
12 With the Pros?

13 A You wanted me to say -- to attest to what Mr.
14 D'Onofrio had told you apparently. You repeated what
15 D'Onofrio told you.

16 Q Now we are getting to it.

17 A You said D'Onofrio would claim on the witness
18 stand that Mr. Frank and Mr. Stoller and myself structured the
19 entire distribution of Training With the Pros.

20 Q Did I tell you how D'Onofrio was going to say
21 it?

22 MR. GOULD: Maybe I misunderstood.

23 (Question read.)

24 MR. GOULD: I object to that question as to its
25 form because I don't know what it is intended to elicit.

1 THE COURT: Sustained as to form.

2 Q What did I say if anything to you, Mr. Allen,
3 as to what Mr. D'Onofrio's testimony would be?

4 A You said that it would be embarrassing if two
5 key witnesses had a conflict of testimony.

6 Q I am sorry --

7 A You asked me what you said. Why are you afraid
8 of the answer?

9 Q I am asking again what did I say D'Onofrio's
10 testimony would be about Training With the Pros.

11 THE COURT: Let me ask you. Let's see if
12 we can get on the track here.

13 Mr. Allen, did there come a time or times when
14 you say that Sorkin told you in words or substance what
15 D'Onofrio was going to testify to or was testifying to?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: He did?

18 THE WITNESS: Yes.

19 THE COURT: Approximately when did this occur?

20 THE WITNESS: At our first meeting when I was
21 arrested.

22 THE COURT: In January?

23 THE WITNESS: Yes, your Honor.

24 THE COURT: Do we understand you correctly to
25

1 be telling us that Sorkin, as you see it, wanted you to
2 give testimony that would corroborate or support what he
3 was telling you D'Onofrio was going to say?
4

5 THE WITNESS: Yes, your Honor.

6 THE COURT: Apparently, and Mr. Sorkin can
7 correct me if I am wrong, what Mr. Sorkin is trying to get
8 from you is specifically what it was, first, that he told
9 you that D'Onofrio was testifying to.

10 THE WITNESS: Yes, your Honor.

11 THE COURT: Would you tell us that?

12 THE WITNESS: Yes. You told me that D'Onofrio
13 said that he was the principal financier behind Training
14 With the Pros. That he prevailed upon the company to go
15 public, that because it was a thin issue it would be very
16 difficult to get the stock, that he went to Marty Frank
17 and had a series of meetings, discussing how Phil and I and
18 possibly others could get the stock.

19 Q Was there anything else that I said?

20 A Then he said that he was going to testify that
21 after we bought the stock we pushed it up and sold it to
22 friends of ours.

23 Q Anything else?

24 A That was the substance of it other than the
25 nuances I don't recall, but you can bring it out.

1 Q Did I tell you specific numbers D'Onofrio
2 would mention and specific dates and specific conversations?

3 A Yes.

4 Q Tell us what I said.

5 A You said D'Onofrio would testify that on June
6 8, 9 and 10, you, a former Judge by the name of Joe Pfingst,
7 Phil and I, Phil and yourself met at the Baur au Lac Hotel
8 and I said I wasn't at that meeting because my travel permit
9 I am sure came later, but I can't swear to it. You said,
10 "It is in your interest to say you were there. D'Onofrio
11 will testify that Joe Pfingst walked away from the meeting
12 and D'Onofrio said that Phil made a comment, "I don't want
13 to cut a lawyer in on the deal, we will sell it to a fat
14 cat," or words to that effect.

15 Q Anything else?

16 A You also said that Freddy Herbert would receive
17 a portion of the profits if and when the stock were crossed
18 to the so-called fat cats. This is what you said D'Onofrio
19 said. I didn't speak to Ray at the time.

20 Q Was there anything else that I said that Mr.
21 D'Onofrio would say?

22 A Yes. He said D'Onofrio would swear that he
23 was at a meeting where Marty supposedly told me, an old
24 pro, to use nominees.
25

qb-10

Jerome Allen-cross

Q Anything else, Mr. Allen, in the six hours or five hours that we were there?

A You showed me a letter of indication which I had never seen before from the Bank Hofmann saying this is a letter that Ray would claim you saw. You didn't say you claimed, Ray said you saw this letter. I said this is the first time -- I am sorry, a copy of the letter. Whenever I balked, Mr. Sorkin, in all honesty you said, "Jerry, you don't have much choice but to go along with us."

Q I want you to be honest, so give us all your honesty.

Anything else that I said?

A As to the subtlety of the case? When you say, "what you said," you mean on Training?

Q That is all we have been talking about.

A We talked about other things.

Q Let me ask you again --

A Yes, you also said that it was important because I was a trouble maker, something somebody else in your office accused me of. Jack Lowe, who said, "You are the one who wrote the letter," and you said to insist that me and Marty wrote the letters and I said when I told Mr. Frank by phone that you wrote the letters I said, "Jerry, you are a screwball. You are violating protocol. You

1 are putting yourself on a limb, I am sorry, you wrote them."

2 Q How about the letters of October 4 and October
3 22, did he call you a screwball?

4 A Mr. Lowe made no reference to that.

5 Q Let's go back. You say you sat there until
6 12:00 A.M. or 1:00 A.M. on the evening of January 15 or
7 the 16th, going into the 16th. Tell us what else I said
8 to you about what Mr. D'Onofrio was going to testify to?

9 A You also told me what Mr. Bonavia would testify
10 to.

11 Q Let's stay with D'Onofrio first. We will get
12 to Bonavia. What else about D'Onofrio?

13 A You also said that D'Onofrio would claim that
14 after the stock went down that Joe came to him to try to
15 buy a letter for unregistered shares.

16 Q Anything else?

17 A I don't recall offhand. There were many things.

18 Q Let's stay with Training With the Pros. Was
19 there anything else that I said about what D'Onofrio would
20 testify to?

21 A Yes, you said that Mr. D'Onofrio in discussing
22 Training would testify that Joe Pfingst allegedly hoodwinked
23 him out of \$400,000.

24 Q Anything else that I said, Mr. Allen?

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A That Fred Herbert was an integral part of the distribution according to D'Onofrio.

Q Tell us the rest of the conversation. What I am trying to do is expedite this by a general question to you.

MR. GOULD: I am very sympathetic with counsel's objective, but I suggest that the witness' recollection appears to have been exhausted some time ago.

MR. SORKIN: That is not so. He keeps coming up with new things.

THE COURT: Thirty seconds, go. Put your question.

MR. SORKIN: Thank you, your Honor.

Q Now, Mr. Allen, was there anything else that I told you to say that Mr. D'Onofrio would say on the evening of January 15?

A Yes, you said that D'Onofrio would stress three or four alleged meetings. The first with Pfingst, Phil and myself supposedly at the Baur au Lac on June 8, 9 and 10. A second meeting supposedly held in Marty Frank's office after Labor Day of '68, I believe. Then another meeting where supposedly -- and this really shocked me -- Marty said that this letter wasn't prepared right or something to that effect, some indication letter.

qb-13

Jerome Allen-cross

1 qb-13
2 Then you said that Ray was going to testify
3 about a meeting wherein Mr. Frank allegedly chastised Mr.
4 Stoller for not taking the Fifth before the SEC at a hearing.

5 Q Was there anything else? Is your recollection
6 completely exhausted as to what I told you Mr. D'Onofrio
7 would say?

8 A You went over many things, Mr. Sorkin.

9 Q I want to get your recollection.

10 A In all fairness that night we discussed many
11 things. I don't want to bore the Judge or jury.

12 Q Let the Judge tell you whether you are boring
13 him. Please answer my question. Anything else that I
14 said that Mr. D'Onofrio would say about Training With the
15 Pros?

16 A Yes, he said that he would claim that after Phil
17 and I bought the stock we sold it to a Mr. Bonavia and
18 a Mr. Muir Weissinger.

19 Q Anything else?

20 A Yes, that we used many, many brokers to tout
21 the stock to.

22 Q Anything else?

23 A And I said to you what brokers he mentioned and
24 you said Wein and Paruch. I said where are the others,
25 and you said, "The names would come later."

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Q Anything else?

A That was really the heart of it.

Q We have the heart of it. Anything else?

A Then you discussed peripheral matters.

Q That exhausts your recollection on the evening of January 15?

A It pretty well does. There may have been other things. I stepped off a plane after an eight-hour flight. I was groggy.

Q When was the next time either I or Mr. Doonan met you and told you what other things Mr. D'Onofrio would say?

A The next morning my wife -- my former wife accompanied me to Magistrate Raby's office and you insisted, contrary to a letter -- I am sorry, contrary to a statement you made to my Swiss lawyer who has a communication from the State Department, you insisted that my former wife put up her summer home worth \$50,000 in lieu of bail and in lieu of cash. You asked me what happened the next morning.

Q I appreciate that, and I know you said that before. My question though was, when was the next time either I or Mr. Doonan told you after January 15 what Mr. D'Onofrio would say on the Training With the Pros case, that is all?

qb-15

Jerome Allen-cross

A The next morning we went over testimony that you said others would probably come forth with and then --

Q Just D'Onofrio, Mr. Allen, please.

A The next morning I met with you after Janice signed over the house.

Q Was anyone else present?

A I don't remember that. I think I went to see Mr. Doonan that day, I am not sure.

Q What did I then tell you supposedly about what Mr. D'Onofrio would say?

A The next morning you got off the D'Onofrio kick and you asked me to keep in touch with Mr. Frank to see what their defense would be.

Q I didn't ask you or tell you anything else the next morning?

A You may have. I don't remember specifically.

End 4A

1 jge 1

Jerome Allen - cross

2668

2 Q How about after that meeting? Stay with D'Onofrio,
3 Mr. Allen.

4 A I am sorry.

5 Q After that morning, January 16, when was the
6 next time either I or Mr. Doonan met you and told you what
7 Mr. D'Onofrio would say, just D'Onofrio?

8 A You mentioned D'Onofrio's testimony.

9 Q When?

10 A Every meeting I had with you on Training.

11 Q The question is again: When was the next time
12 after January 16?

13 A I don't remember the exact dates Mr. Sorkin.
14 You have your diary, I don't.

15 Q You don't remember when you met after January 16?

16 A I came down there quite frequently. I can't
17 give you an exact date.

18 Q When was the time that we met with you supposedly
19 and told you what Bonavia was going to say?

20 A You said you had telephone conversations with
21 Mr. Bonavia, that he was having tax problems --

22 Q Mr. Allen, please. The question is when did we
23 meet with you after January 15, 1974 and Mr. Doonan or I
24 told you what Bonavia would say?

25 A That was after the indictment was handed down.

jqe 2 Jerome Allen - cross

Q After February 14?

A Yes.

Q Where was that, sir?

A In your office.

Q Was anyone else present?

A No, sir. People would come in and go out getting records, but nobody sitting there full time.

Q I was there and Mr. Doonan was there or just me?

A I believe you were. Mr. Sorkin, I had many meetings with you. Sometimes Mr. Doonan was there and sometimes he wasn't. I can't remember the exact days he was not there or days when somebody else may have come in.

Q Tell us now, Mr. Allen, what I told you Mr. Bonavia was going to say?

A You told me that Mr. Bonavia had admitted to you that he was having severe tax problems --

Q That is not my question. You want to get on Mr. Bonavia's tax problems and I will get to that.

MR. GOULD: I object to that. It is inevitable that before this witness leaves the stand the whole conversation is going to come out. Why shouldn't counsel ask him to describe the conversation now? Wouldn't that be easier?

THE COURT: For the reason that when you were

1 jge 3 Jerome Allen - cross

2 asking questions I would not have permitted him to formulate
3 your questions. We are not going to get into that.

4 MR. GOULD: Except I must object to this
5 insistence --

6 THE COURT: That is a horse of another color and
7 I will sustain the objection. However, put your question
8 again, Mr. Sorkin. Think before you utter.

9 MR. SORKIN: Yes, your Honor.

10 Q Mr. Allen, after February 14, 1974 when the
11 indictment was returned when, if you can recall, did I sit
12 down with you and tell you what Mr. Bonavia was going to say
13 at the trial of this particular case?

14 When, that is the question.

15 A After the indictment, I don't remember the exact
16 date.

17 Q Tell us what I told you supposedly that Mr.
18 Bonavia was going to say in this case?

19 A You said that Bonavia was having a certain con-
20 flict within himself. That one minute he would claim that
21 he bought stock from Phil and myself and the next minute he
22 was going to claim he never gave the order. So you said you
23 were in a quandry. How can a man be upset about a stock he
24 never ordered --

25 Q And then --

1 jpe 4

Jerome Allen - cross

2 MR. GOULD: Can we get the rest of the answer?

3 I think he is trying to be responsive.

4 THE COURT: The real point is have you finished?

5 THE WITNESS: No, they both started talking.

6 THE COURT: Whether they did or they didn't, have
7 you finished?

8 THE WITNESS: On that particular question.

9 Q Anything else that I said that Mr. Bonavia was
10 going to say?

11 A Yes.

12 Q Tell us what it is.

13 A You said Mr. Bonavia would point a finger at
14 Phil claiming that Phil once threatened him and I laughed
15 at that because Joe used to be a boxer.

16 Q Anything else?

17 A At that first meeting when you discussed Bonavia
18 no, you discussed Bonavia with me again much later as we came
19 toward trial.

20 Q And we never discussed Bonavia again?

21 A Again after what meeting, sir?

22 Q I will withdraw the question, Mr. Allen.

23 Mr. Allen, during this whole period of time you
24 were under threats by Mr. Doonan and myself, is that so?

25 MR. GOULD: I object to this, your Honor.

1 jpe 5 Jerome Allen - cross

2 THE WITNESS: Mr. Doonan didn't make threats --

3 MR. GOULD: Just a minute. I have to object to
4 the question as to its form first.

5 THE COURT: I am going to allow it because I
6 assume, counsel, you mean the period between January 16
7 and the start of this trial?

8 MR. SORKIN: That is correct.

9 A You mentioned Bonavia's testimony to me. Your
10 statements to me accelerated as we came closer to trial.

11 Q And from January 15 in all the conversations
12 we had and the conversations with Mr. Doonan you were
13 under continuing threat from this office?

14 A Not the office, from you.

15 Q From me alone.

16 A Except for the remark which Mr. Doonan made
17 which looking back it may have been factitious. I don't
18 remember Tom making a threat after I came back.

19 Q You mean threatening to put heroin in your apart-
20 ment is a factitious threat?

21 A Looking back on it, it may have been factitious.

22 Q Did I threaten to put heroin in your apartment?

23 A No.

24 Q Just Mr. Doonan?

25 A You made --

1 jpe 6

Jerome Allen - cross

2 Q Just Mr. Doonan, yes or no?

3 MR. GOULD: Why do we have to have this?

4 Q I will withdraw the question.

5 Did you speak to any other assistant United
6 States attorneys from January 15 through the second or
7 third week of August when you decided to vacate your
8 plea?

9 MR. GOULD: I will object unless it is confined
10 to Training with the Pros.

11 THE COURT: I will allow it.

12 Q Who did you speak with, Mr. Allen?

13 A U. S. Attorneys?

14 Q Assistant United States attorneys like me?

15 MR. GOULD: I object to that. I don't think
16 there are any just like him. I don't think it is a proper
17 question.

18 THE COURT: Now that we have cleared the deck on
19 that, the question simply is --

20 THE WITNESS: I can answer that.

21 THE COURT: The question is, any assistant that
22 you talked to.

23 A Yes, I was questioned by Mr. Jack Lowe, about a
24 man named Sancule but he never questioned me about Training.

25 Q Did you volunteer the information to Mr. Lowe or
did he march into my office one day and ask you about

1 jqa 7 Jerome Allen - cross

2 Sancule?

3 A I made you aware of the fact that Mr. Sancule
4 had instituted suit against me in a city court.

5 MR. GOULD: I move to strike this out. This
6 has nothing to do with our case.

7 THE COURT: I quite agree the details don't but
8 the problem here again is, gentlemen, Mr. Allen, they don't
9 apparently want to know what you told these assistants.
10 The question that I understand and you should understand is
11 simply you talked to a number of other assistants?

12 THE WITNESS: I remember talking to Jack Lowe.

13 THE COURT: Anybody else?

14 THE WITNESS: I remember talking to, of course,
15 Mr. Sorkin. I never spoke directly to Mr. Wing, I don't
16 believe.

17 THE COURT: How about Gerald Feffer?

18 THE WITNESS: I believe the only time I saw him
19 was at an arraignment on bail. I never discussed the case
20 with him.

21 THE COURT: This doesn't have to be limited to
22 Training With the Pros or Training, as you call it. Any-
23 thing, the time of day.

24 THE WITNESS: I spoke to Mr. Doug Eaton.

25 Q Anyone else?

1 jqa 8

Jerome Allen - cross

2675

2 A A fellow who worked with him, Sussman, I believe.

3 Q So we have Lowe, Eaton, Sussman -- go ahead.

4 A I can't recall anyone else.

5 Q How about John Wing, the Chief of the Frauds
6 Division?

7 A Yes, sir, he did question me one day.

8 Q Didn't you go to Mr. Wing of your own volition
9 and tell him that you could help him bring Vesco back to the
10 United States?

11 MR. GOULD: I object to that, your Honor.

12 THE COURT: Yes, I sustain that objection. We
13 don't have to get into that.

14 Q Mr. Allen, did you volunteer the information to
15 these assistant U. S. attorneys that you gave them?

16 MR. GOULD: I have to object at this point. We
17 are getting into a lot of collateral matters.

18 THE COURT: We are not. It is highly irrelevant
19 in my view to know whether or not, Mr. Allen, in the months
20 between January 16 of this year and the third week of August
21 when you say that you stopped cooperating, did you ever
22 volunteer any information to any investigator, any lawyer
23 operating here in the Southern District?

24 THE WITNESS: Yes, I did.

25 THE COURT: You did.

1 page 9

Jerome Allen - cross

2 Next question.

3 Q Did you tell either Mr. Eaton, Mr. Sussman or
4 Mr. Lowe that you were under threats by me?

5 A No, sir.

6 Q You testified before the grand jury on February
7 14, 1974. Do you recall that?

8 A I testified -- I don't remember the date.

9 MR. SORKIN: May we have this marked please.

xx

10 (Govenment's Exhibit 117, marked for identifica-
11 tion.)

12 Q Mr. Allen, let me turn my attention to Training
13 With the Pros for just a moment.

14 Did you have an account at Bank Hofmann, Mr.
15 Allen?

16 A At what period of time?

17 Q From June 1, 1968, through 1969, 1970, 1971?

18 A Yes, I did.

19 Q What was the name of that account?

20 A Erika.

21 Q Account Erika. Who is Erika?

22 A Pardon?

23 Q Who is Erika?

24 A It is a name I selected.

25 Q But who is it?

1 jge 10

Jerome Allen - cross

2 A I know a lot of girls named Erika?

3 Q How about Mr. Herbert's wife?

4 A Her name is Erika.

5 Q Her name is Erika.

6 When did you open the account Erika?

7 MR. GOULD: I object to any inquiry along this
8 line unless counsel shows how it is related to this case.
9 It can only be either material to the case or his credi-
10 bility. I don't see that it is either at this point.

11 THE COURT: We haven't gotten very far. I will
12 give him some latitude.

13 Q When did you open Account Erika, Mr. Allen?

14 A I believe around 1965 or '6, Mr. Sorkin.

15 Q Do you recall being asked this question before
16 the grand jury on February 14, 1974 and giving this
17 answer.

18 "Q Am I correct, Mr. Allen, that prior to
19 approximately June 11, 1968 you had opened a secret coded
20 account at Bank Hofmann and the code name you used was
21 Erika?

22 "A That is correct, yes, sir."

23 A Yes.

24 Q Is that true?

25 A I did have an account but the word secret is what

1 jpe 11 Jerome Allen - cross

2 you wanted me to emphasize. It is done for convenience.

3 Q Done for convenience.

4 MR. GOULD: If your Honor please, I renew my ob-
5 jection and move to strike.

6 THE COURT: I renew my ruling.

7 Q Mr. Allen, do you still have Account Erika?

8 A No, I don't.

9 Q When did you close Erika?

10 A When Joe Bonavia and I opened the joint account
11 at Bank Weideman in '71.

12 Q Did you put in your income tax return for 1970
13 that you had a foreign account?

14 MR. GOULD: I object to this. This has nothing
15 to do with this case.

16 THE COURT: Overruled.

17 A I don't remember, Mr. Sorkin. I don't have the
18 return in front of me.

19 Q When in 1971 did you close your account at Bank
20 Hofmann?

21 A When I transferred my remaining securities I was
22 under margin to --

23 Q Just the date, please.

24 A The beginning of '71, I believe.

25 Q It was asked in your testimony before the grand

page 12 Jerome Allen - cross

jury if the secret coded account at Bank Hofmann was code
named Erika and you answered "that is correct, yes, sir."
And that was false?

MR. GOULD: I object to that.

THE WITNESS: I said I had an account.

Q Let me ask the question again:

"Q Mr. Allen, am I correct that prior to approximately
June 11, 1968 you had opened a secret coded account at Bank
Hofmann and the code name you used was Erika?

"A That is correct."

A That is correct. Every account at the bank is
secret because no one is supposed to know what you are doing.
Under Swiss law they are secret.

Q Did you have any other accounts at the time with
any other Swiss banks?

MR. GOULD: I object to that unless there is some
showing what it has to do with our case.

THE COURT: It may have possibly but that is so
broad and open-ended, Mr. Sorkin.

MR. SORKIN: I will pin it down.

Q Have you ever heard of a bank called Bank Uto?

A Yes, I did.

Q Did you have an account there?

MR. GOULD: I object to it.

jqe 13 Jerome Allen - cross

THE COURT: What does this have to do with this case? It doesn't have anything to do with credibility because we don't know anything about it.

Q You say you had an account at Nord Finance?

A I didn't say that.

Q Did you open an account in Nord Finance in 1971 with Mr. Bonavia?

A Bank Weideman.

Q Did that have a code name?

A Hope, like Bob Hope.

Q Any other identification?

A No, Joe financed that account.

Q Any other identification?

A The Joe Bonavia-Jerry Allen account, and the name was hope.

Q Did Mr. Stoller have an account at Bank Hofmann?

A Yes, he did.

Q What was his account name at Bank Hofmann?

A When he received fees from clients --

Q Please.

A Shirley.

Q What is Mr. Stoller's wife's middle name, do you know?

A Shirley.

jqe 14 Jerome Allen - cross

Q When did Mr. Stoller open his account?

MR. GOULD: I object to this.

Q If you know.

MR. GOULD: It is not cross examination. I never asked anything about this and it doesn't go to credibility of this witness.

THE COURT: I must agree on the latter part at least.

MR. GOULD: If he wants to call him he can call him as his witness.

THE COURT: The date of the account I think we are going --

Q Do you recall being asked this question before the grand jury -- and before I ask you this -- do you know when Mr. Stoller opened his account?

A When he opened it?

Q Yes, sir.

A I believe in '68, approximately. It was the beginning of '68. I am not sure.

Q Do you recall being asked this question and giving this answer.

Q Am I also correct that Mr. Stoller opened an account at Bank Hoffman prior to on or about June 1, 1968, and his secret code name was Shirley?

1 jge 15 Jerome Allen - cross

2 "A Yes, sir."

3 A I just said that.

4 MR. GOULD: That is what he said.

5 MR. SORKIN: Your Honor, he has testified that he
6 went before the grand jury and he told falsehoods.

7 THE WITNESS: Some matters, I said.

8 MR. SORKIN: We are going to get to the other
9 matters.

10 MR. GOULD: Are we to understand we are going to
11 go through this and find out what was true and what was
12 false?

13 THE COURT: Gee, this amazes me. You objected,
14 correct?

15 MR. GOULD: Yes, sir.

16 THE COURT: Let me say, Mr. Sorkin, because of
17 the answers I am inclined to think that I would have to
18 indulge you on this and you would have the right to go
19 through this thing seriatim but is that what you want to
20 do?

21 MR. SORKIN: I am merely trying to find out where
22 in the grand jury minutes Mr. Allen did not tell the truth.
23 I don't know of any other way --

24 THE COURT: I know. There is another way, I
25 would suggest, but apparently you don't see it.

jqz 16

Jerome Allen - cross

1 I suppose, Mr. Allen, you would tell us, would
2 you not, that as best you can recall, you gave truthful
3 answers about these Bank Hofmann accounts to the extent
4 you were asked about them?
5

6 THE WITNESS: Yes, your Honor.

7 THE COURT: Maybe that might be a suggestion to
8 you, Mr. Sorkin.

9 MR. SORKIN: I will try to do it, your Honor.

10 Q Mr. Allen, to your knowledge, did Mr. D'Onofrio
11 have an account at Bank Hofmann?

12 A Yes, he told me he had an account called Gypsy.

13 Q Do you know when his account was opened?

14 A I believe between '66 and '7, I may be wrong,
15 Mr. Sorkin.

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1 gawe 1 Jerome Allen - cross 2684

2 Q Did Mr. Frank have an account at Bank Hofmann?

3 MR. FELDSHUH: Objection.

4 THE COURT: Overruled.

5 Q To your knowledge.

6 A He opened one, but never had any activity in it
7 because he didn't --

8 Q Slow down. We will get to that. Yes or no,
9 did Mr. Frank have an account at Bank Hofmann?

10 A He opened one he never used.

11 Q The answer I suppose is yes.

12 A Yes.

13 Q Okay. What was the name of his account?

14 A He said he would name it after his son, Lance.

15 It wasn't a secret account. If he did anything, he wanted
16 his confirmation. If it was secret, he would name it after
17 his son --

18 THE COURT: I think the question really has to
19 do with what you yourself said earlier. It was an account
20 opened under Swiss law, a numbered account, right?

21 A But the man has the right to get his confirmation,
22 your Honor. It isn't secret in the sense if you want your
23 confirmations as Bonavia did or Mr. Frank -- Mr. Frank never
24 activated the account. He opened it because he was doing
25 legal work for the bank and he wanted to show good faith.

1
2 THE COURT: You are saying it was never registered
3 as a numbered account?

4 A No, sir.

5 THE COURT: All right.

6 Q You said if you want confirmations you can get
7 it.

8 A Yes.

9 Q If you don't want confirmations did anyone know
10 about it other than you and the bank officials?

11 A No, you can tell them --

12 Q Just yes or no.

13 MR. GOULD: Just a minute. I am going to object
14 to that, your Honor. I don't know that he's qualified to
15 answer this. I happened to have spent a little time on
16 this subject.

17 THE COURT: I have no doubt. I am going to allow
18 the question.

19 MR. GOULD: It is not a question. He's really
20 testifying. If he changes it as to form, if the man knows.

21 THE COURT: I quite agree with you. It would be
22 better if it were in that form. Put it again, Mr. Sorkin.
23 Perhaps we can clarify this argument by that simple expedient.

24 Q Mr. Allen, if you didn't ask for your confirma-
25 tions from Bank Hofmann, the only people that would know

1 gawe 3 Jerome Allen - cross

2 about the account would be the officials of Bank Hofmann?

3 MR. GOULD: I object to it as to its form, your
4 Honor. If counsel wants to inquire as to whether this
5 witness knows whether there is a procedure in Switzerland
6 under which that result could be obtained, he should ask
7 him that question. That is not the question that's been
8 asked. I object to it as to its form.

9 MR. SORKIN: I will rephrase it then.

10 Q Mr. Allen, did you receive confirmations?

11 A Yes.

12 Q Did you report your transactions on your income
13 tax returns?

14 A I believe I did.

15 Q Where are your bank records now?

16 MR. GOULD: I object to this, your Honor. It
17 has nothing to do with the case.

18 THE COURT: I'm going to sustain that for the
19 moment because of several reasons.

20 Q Mr. Allen, was Mr. Frank's account as you called
21 it, a secret coded account?

22 A No, sir.

23 MR. FELDSHUE: Objection as to form.

24 A No, sir.

25 Q Do you recall being asked this question in the

1 gawe 4 Jerome Allen - cross
2 grand jury of February 14, 1974 and giving this answer:

3 "Q Am I correct that Mr. Frank's secret coded
4 account at Bank Hofmann was code name Lance?

5 "A Yes, sir."

6 Was that true?

7 A Yes, the name was Lance.

8 Q Was it a secret coded account?

9 A You are dealing in semantics. Every account at
10 the bank under Swiss law is theoretically a secret account.

11 Q Secret from whom, Mr. Allen?

12 A Secret for other banks, from brokers.

13 Q How about from the United States authorities?

14 MR. GOULD: I object to this, your Honor.

15 What does this have to do with our case?

16 THE COURT: It has this to do with it, Mr. Gould.
17 It's been bruted about since the day we started.

18 Next question.

19 Q Mr. Allen, you testified yesterday that the
20 15,000 shares were delivered and sold to Bank Hofmann?

21 A No, I said 10,000, 5,000 for myself. I didn't
22 say 15,000. You said that.

23 Q Five thousand for yourself, 5,000 for Mr. Stoller.

24 A Yes. I didn't say 15,000.

25 Q What about 5,000 for Mr. D'Onofrio?

gawe 5 Jerome Allen - cross

A I never testified, I don't believe, that he delivered or sold any stock.

Q Did he?

A I don't know. I know what I sold and I believe I know what Phil sold.

Q 10,000 shares?

A Yes. I didn't say 15,000. You said that.

Q You sold that to the bank, negotiated the transaction, received \$10 per share less commissions, is that correct?

A Yes, sir.

Q I'm going to ask you this question, Mr. Allen.

Do you recall being asked this question and giving this answer to the grand jury on February 14, 1969.

"Q Now, am I correct, Mr. Allen, that on or about February 25, 1969 Mr. Stoller delivered the approximately 15,000 shares to Fred Herbert at Bank Hofmann to be deposited into Erika, Shirley and Gypsy?

"A Yes, sir, he went to Switzerland. I recall he brought the stock. There's a remote possibility that it may have been mailed to him, but he went to the Baur au Lac Hotel as I recall. He brought the certificates with him."

Do you recall being asked that question and giving that answer?

1 gawe 5a Jerome Allen - cross
2 A Yes.
3 Q Was that true?
4 A No.
5 Q That was a lie?
6 A That was part of your game plan.
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1 Q I am sorry.

2 A That was part -- part of the stress that you
3 tried -- remember I said before --

4 Q Tell us when I told you to give that answer to
5 that question.

6 A At one of your meetings. I don't remember.

7 Q Tell us --

8 A I don't remember the date, Mr. Sorkin. You
9 have the privilege of a diary, I don't.

10 Q Mr. Allen --

11 MR. GOULD: I can't hear what this man is saying.

12 Q Tell us when, Mr. Allen, prior to February
13 14, I told you to give that answer to that specific question.

14 A At the same meeting where I -- I said a few
15 moments ago that Mr. D'Onofrio was going to say that Phil
16 and I pushed the stock up and sold it to our clients.

17 Q Which meeting was that, the January 15th meeting?

18 A A meeting before the indictment, I believe.

19 Q Before the indictment?

20 A Yes, as part of the thrust --

21 Q The indictment was February --

22 MR. GOULD: He is trying to give you the
23 rest of his answer.

24 MR. SORKIN: I understand that. I am trying
25 to help his recollection as to the date.

gab-2

Jerome Allen-cross

1 gab-2
2 MR. GOULD: May we hear the rest of what he was
3 saying, your Honor?

4 THE COURT: Yes.

5 Q Go ahead.

6 A The thrust of your case was that Mr. D'Onofrio
7 would testify that Phil and I sold the stock at a higher
8 level to accounts of the bank.

9 Q My question to you, Mr. Allen, is when did I
10 tell you to give that answer to that question?

11 A Before --

12 Q The specific words.

13 A Before I went -- before I went before the grand
14 jury, the same way you told me not to mention Phil was
15 drunk.

16 MR. GOULD: What was that last? I didn't hear
17 that.

18 THE WITNESS: He told me to say it, the same
19 manner he told me not to say that Phil was drunk..

20 Q When did I tell you not to say Phil was drunk?

21 A When we discussed the so-called threats.

22 Q When were the threats?

23 A The telephone calls.

24 Q Wasn't that March 6, Mr. Allen, before you
25 testified here?

1 gab-3

Jerome Allen-cross

2 A Yes. I testified on other matters, too.

3 Q Wait. Let's go slow.

4 At the same meeting you say that I told you
5 not to say Phil was drunk I told you to give --

6 A I didn't say that. I said before I went to the
7 grand jury you prepared me.

8 Q Let me ask you this: At the same meeting did I
9 tell you not to say Phil was drunk?

10 A That was at a meeting you had relevant to the
11 indictment --

12 Q That was another meeting?

13 A Yes, we had many meetings.

14 Q I am sorry. I thought you said it was the same
15 meeting.

16 A No.

17 THE COURT: I think we will interrupt here
18 if you don't mind.

19 Is that all right?

20 MR. SORKIN: That is fine, your Honor.

21 THE COURT: Mrs. DeBartolo and ladies and gentle-
22 men: We have agreed that we will start later than usual
23 tomorrow, at 11:30, to accommodate one of your members who has
24 a special problem, and the lawyers and the litigants want
25 to accommodate him as much as we can and, therefore, we

1 gab-4

Jerome Allen-cross

2 are starting at 11:30, as you may know.

3 We will see you at that time. If you could
4 be in your jury room, and hopefully we will get a prompt
5 start.

6 Tomorrow as quick as I can I will give you an
7 appraisal after I talk to the lawyers as to just how much
8 longer they think we are going to be. I am not sure of
9 how to answer that frankly from what I know now. I will
10 try to explore it tonight and tomorrow, and then let you
11 know what I find out.

12 See you tomorrow morning at 11:30.

13 (Jury left the courtroom.)

14 THE COURT: Gentlemen, I spoke to Mr. Turchin
15 this morning, -- Mr. Turchin, as I think you know -- represents
16 Mr. Allen -- and asked him if he would mind coming in
17 tomorrow just to stake out on the record what this motion
18 of Mr. Allen's is for leave to withdraw his plea. I have
19 made clear to Mr. Turchin, and I think he understands it in
20 any event, it is not my intention that we will resolve this
21 matter tomorrow. The Government has not had a chance to
22 respond to that motion in any way.

23 But I would like to get it staked out as to
24 just what we are up to and where we are going and then
25 calendar it if we can for some later date, subject to what

1 gab-5

2 Mr. Turchin and Mr. Sorkin want to do.

3 Now, as far as I am concerned, defense counsel
4 are invited to be here. I am doing that in the same
5 spirit. This morning before we began I turned over to the
6 defense the motion papers, not that I consider that required
7 by law, but I just think it is required by common sense.
8 If you choose not to come, that is your business. I just
9 wanted to mention that.

10 I had suggested to Mr. Turchin ten o'clock. I
11 really don't think that is necessary. I am bold enough to
12 suggest 11:00 o'clock unless that presents a problem for
13 you, Mr. Turchin.

14 MR. TURCHIN: No, it is fine with me, your Honor.

15 THE COURT: Is that all right, Mr. Sorkin?

16 MR. SORKIN: Fine, your Honor.

17 THE COURT: Very good.

18 MR. GOULD: I do have your Honor's motion
19 papers here.

20 THE COURT: Those don't belong to me, they belong
21 to the Court. If you would like to keep them over the
22 evening --

23 MR. GOULD: I would be grateful. Why don't we
24 Xerox them over the evening and I will return them in the
25 morning unless your Honor needs them.

1 gab-6

2 THE COURT: No.

3 MR. GOULD: Thank you very much.

4 Here is another set. Let me return them.

5 THE COURT: Thank you.

6 MR. SORKIN: Your Honor, we have a stipulation
7 here. This is as good a time as any. Both sides have
8 agreed to it.

9 MR. GOULD: I don't know what it is.

10 MR. SORKIN: Mr. Grimes did it.

11 MR. GOULD: Good.

12 MR. SORKIN: Your Honor, would you like us to
13 read it into the record now or save it to tomorrow morning?

14 THE COURT: No, I would spare the reporter that
15 if we can. All I want to make sure of is you have in fact
16 agreed or stipulated?

17 MR. GOULD: It would take two minutes. Why
18 don't we put it on the record?

19 THE COURT: I think you would save your strength
20 and do it when the jury is here. Isn't that all right?

21 MR. GOULD: All right.

22 THE COURT: I don't object to it.

23 MR. GOULD: No, it is all right with me. We will
24 do it in the morning before the jury.

25 We are just going to send this woman away. That

1 gab-6a

2 is all.

3 THE COURT: Yes, that I understand. You are
4 happy to have Mrs. Herzfeld go.

5 MR. FELDSHUH: Indeed I am, sir.

6 (Adjourned to October 9, 1974, at 11:30 A.M.)

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WITNESS INDEX

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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EXHIBIT INDEX

<u>Government</u>	<u>Identification</u>	<u>In Evidence</u>
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38	2525	2527
39	2525	2528
40	2525	2529
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42	2537	2545
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2 United States of America

3 vs.

74 Cr. 159

4 Philip Stoller and Martin
5 Frank

6 New York, New York.
7 October 9, 1974 - 11:30 A.M.

8 (Trial resumed.)

9
10 (In open court; jury present.)

11 THE COURT: Good morning, Mrs. DeBartola and
12 ladies and gentlemen.

13 I think we are ready to go ahead.

14 J E R O M E A L L E N resumed.

15 MR. SORKIN: May I proceed, your Honor?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION (continued)

18 BY MR. SORKIN:

19 Q Mr. Allen, let's go back to your plea of guilty
20 in this particular case before Judge Tyler.

21 Do you remember being asked this question by Judge
22 Tyler:

23 "Q Now, I could go on by reciting other matters,
24 the means and allegations of Count 1, but I want to know in
25

1 your own words what was your involvement in all of this?

2
3 "A In the summer of 1968, your Honor, a promoter,
4 if I may call him that, by the name of Ray D'Onofrio, came
5 to me and my former partner, Mr. Stoller, and to my attorney
6 at the time, Mr. Martin Frank, and said that he was going
7 to help a company called Training With the Pros go public
8 late that year or early 1969. Subsequent to that we had
9 a series of meetings, but we arranged to have others by a
10 substantial block of the stock to sell to us that we
11 deliver our shares to the coded accounts in Switzerland, sold
12 the shares to accounts that we controlled in Switzerland,
13 your Honor, and then we divided the profits. Out of my end
14 of the profits in Switzerland I transferr ed,I don't know the
15 details, \$15,000 to the account of an attorney named Martin
16 Frank, who had an account in Switzerland and to Alfred
17 Herbert at the very same bank. Mr. Herbert at the time was
18 a Swiss bank officer.

19 "Q I gather that this was in or about March of
20 1969 that you, Allen and Herbert sold about almost 15,000
21 shares?

22 "A Yes, your Honor.

23 "Q And it was from those sales or that sale that
24 you recognized certain or realized certain proceeds?

25 "A Yes, your Honor.

1 "Q Which were in turn deposited in a Swiss bank
2 account?
3

4 "A Yes, and then debited part of the proceeds, debited
5 from my account to the credit of other people who conspired
6 with me on this manipulation.

7 "Q Actually it was more than 15,000 shares, there
8 was one group of 14,900 shares and then a group of approx-
9 imately 3300 shares according to the indictment?

10 "A I am not sure of that additional amount, sir.
11 There is some gray area there. I know the original block
12 was approximately 15,000 shares.

13 "Q I see.

14 "A There may have been additional shares purchased
15 in the after market but since there were four or five of us
16 involved in I can't swear exactly to their activities.

17 "Q That is right, you may not have been directly
18 involved in that later grouping which is mentioned here. I
19 notice that one of the allegations in Count 1 is that as
20 a result of these sales and other activities it is alleged
21 that you, Philip Stoller, Herbert and D'Onofrio divided
22 between yourselves approximately \$900,000 with perhaps some
23 deductions for expenses and that it was those amounts that
24 you credited to your respective secret coded accounts at
25 Bank Hofmann and that your code name for your account was

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Erika, is that correct?

"A Yes, your Honor, there is what in effect happened was my end of this transaction was \$192,000 and out of that I transferred \$15,000 to the account of Martin Frank and \$36,000 to the account of Alfred Herbert who was a Swiss bank officer. I netted \$192,000 before these transfers, your Honor.

"Q I see.

"A There may have been superfluous money made on the transfer with other clients, I can't speak for them.

"Q Yes, I understand.

"A Not clients, defendants, your Honor."

Do you recall being asked those questions, Mr. Allen, by Judge Tyler and you giving those answers, yes or no?

A Yes.

Q Was your attorney next to you at the time?

A Yes, he was.

Q Do you recall Judge Tyler asking you this question

MR. GOULD: Would you give us the transcript page on both of those, please?

MR. SORKIN: The transcript beginning on Page 5, Line 4, and going --

MR. GOULD: That is good enough.

1 qb-5
2 Q On Page 8, Line 20, this is Judge Tyler asking
3 you this question:

4 "Q Now, Mr. Allen, did anybody try to promise to
5 you or suggest to you in order to induce you to plead guilty
6 here this morning that you would get some specific sentence
7 or some lenient sentence treatment and as a result of that
8 you decided to plead guilty?

9 "A I was given no such promises, your Honor."

10 Do you recall being asked that question, Mr.
11 Allen, and giving that answer?

12 A Yes, I answered, and I lied.

13 MR. GOULD: I didn't hear you.

14 THE WITNESS: I answered and I lied.

15 Q Now, Mr. Allen, on March 4, you went before
16 Judge Carter, the day before, and that is the passbook case
17 with Mr. Eberhardt.

18 A Yes, sir.

19 Q Do you recall Judge Carter asking you this
20 question, Mr. Allen, and you giving this answer:

21 "Q Any promises that Mr. Eberhardt made to you
22 or your counsel for the Government that has induced you to
23 plead guilty?

24 "A No, your Honor.

25 "Q Have you been threatened in any way to induce

1 you to plead?

2 "A No, your Honor."

3 And I am reading at Page 4, Mr. Gould, and Mr.
4 Feldshuh, starting at Line 18:

5 "Q I think what you better do, Mr. Allen, is to
6 tell me in your own words what you did on or about January
7 11, 1973, to the time this indictment was filed, May 21, 1973--

8 MR. GOULD: I object to the question and the
9 answer. This is another case, your Honor.

10 MR. SORKIN: It is an answer by Mr. Bregman.
11 If Mr. Gould will allow me to read it he will surely see
12 that it is in no way related to the other case.

13 THE COURT: I can't say one way or the other
14 because I am not privy to what you are reading from. Go
15 ahead, finish and then I will rule.

16 MR. SORKIN: Judge Carter's last words to you
17 were "January 1, 1973, to the time this indictment was filed
18 May 21, 1973," and then Mr. Bregman says this: "If I may,
19 your Honor, about the promises I want the record to be per-
20 fectly clear about the potential promises with respect to
21 me and the Government. Mr. Allen has also been indicted in
22 three other actions. There is an arrangement between
23 Mr. Allen and myself and the Assistant United States Attorney
24 in the Southern District, not Mr. Eberhardt, Mr. Sorkin, who
25

1 was the assistant in charge of the other few cases. That
2 agreement in writing will be signed later this morning
3 by which one of those three actions will be nolle prossed
4 and the Government will not prosecute any other potential
5 financial type transactions that Mr. Allen may be involved
6 in. Mr. Allen's side of the arrangement is cooperation with
7 the Government, telling them what he knows and testifying
8 if necessary. Also Mr. Eberhardt here has agreed that
9 Mr. Allen's cooperation will be made known to the sentencing
10 Judge at the time of sentencing.
11

12 "THE COURT: Thank you very much"

13 MR. GOULD: I withdraw the objection. I mis-
14 understood.

15 Q Mr. Allen, do you recall Mr. Bregman making that
16 statement to Judge Carter?

17 A Yes, I do.

18 Q Do you recall Judge Carter asking you that ques-
19 tion before Mr. Bregman said what he said?

20 A Yes, sir.

21 Q And you knew at the time, Mr. Allen, from what
22 you told us yesterday and now this morning that Mr. Bregman
23 himself was lying to the Court?

24 MR. GOULD: I object to that.

25 THE COURT: Just a moment. I don't follow that

1 at all.

2
3 Q Did you tell Mr.Bregman before he made that
4 statement or after he made the statement, Mr. Allen, that
5 you had been threatened by me in this office, just yes or no?

6 A Yes, I told Mr.Bregman.

7 Q Before or after that statement?

8 A Let me finish.

9 Q I am just asking you, before or after?

10 MR. GOULD: I do submit, your Honor, he should
11 finish on that.

12 THE COURT: First of all, let's confine it to
13 before and then if you want to get into after you can. I
14 want you to make it not so open as that. There are really
15 two questions involved.

16 Q Did you tell Mr. Bregman before he made that
17 statement to Judge Carter, Mr. Allen, that you were being
18 threatened in this office and that you were being structured
19 in your testimony on the Training With the Pros case, yes
20 or no?

21 A I told Mr.Bregman before he made that statement
22 about the pressures that originated in your office going
23 back to July of '73 and the pressure exerted upon me through
24 the Embassy in the Swiss jail.

25 Q That is Mr.Rand?

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A Yes, sir, and others. I told that to Mr. Bregman.

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Q What specifically did you say, and I am sure Mr. Gould is going to say that there is a privilege here, I am asking you now, Mr. Allen, and I will ask the Court to direct his attention to Mr. Allen, if he wants to waive that privilege, tell us please what he said to Mr. Bregman specifically about the pressures asserted.

9

MR. GOULD: This is not for me.

10

MR. SORKIN: Mr. Gould objected yesterday.

11

MR. GOULD: I didn't.

12

13

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THE COURT: He didn't object, Mr. Sorkin. He made the point which I accepted and that is why I asked Mr. Allen if he wanted to invoke his privilege.

15

16

MR. SORKIN: I think we are getting into that area.

17

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MR. GOULD: It is entirely up to the witness if he wants to invoke it or waive it.

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THE COURT: Do you remember this, Mr. Allen, yesterday: I pointed out to you that under the law there is what is known as a client's privilege in dealing with an attorney and if you want to claim the privilege and not answer questions as to what you told Bregman, who was, as we all know your lawyer at that point, you may.

THE WITNESS: I believe I will invoke the

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Jerome Allen-cross

2704a

privilege, if that is the legal phrase.

MR. SORKIN: I didn't hear that.

THE COURT: He wants to invoke his privilege.

End 1A

Q Mr. Allen, after Mr. Bregman said this to Judge Carter, did you tell him about the threats and the pressure?

A That would be part of the privilege, wouldn't it, Mr. Sorkin?

Q I am not asking for the conversation. I am asking you yes or no, did you tell him?

MR. GOULD: With all respects, your Honor, that is a peculiar way of eliciting the conversation.

THE COURT: I agree. You just don't want to tell us anything that you said to your lawyer?

THE WITNESS: No, sir.

THE COURT: All right. Let's go to something else.

Q Mr. Allen, do you recall a conversation which you had, a telephone conversation with Mr. Thomas Doonan in February 11, 1974?

A I can't pinpoint a date. I had many telephone conversations with him, Mr. Sorkin.

Q Let me see if I can refresh your recollection. Did you tell Mr. Doonan at any time that Mr. Stoller was close to a man named Harry Penzer, a millionaire who was friendly with a clerk of Judge Motley and that you told Mr. Doonan that Mr. Stoller would attempt to solicit help in finding out about the Training With the Pros investigation --

MR. GOULD: I object to this. I think this is improper cross examination.

THE COURT: I must say, it may well be but that question is unintelligible to me.

MR. SORKIN: I will rephrase it.

MR. GOULD: Aside from the form, the area.

THE COURT: Since I don't even understand it, I can't pass upon your second and main thrust. I will give Government counsel a chance to rephrase it.

Q During the course of a conversation with Mr. Doonan in February of 1974, Mr. Allen, did you mention a man by the name of Harry or Henry Penzor to him, yes or no?

THE COURT: How do you spell that?

MR. SORKIN: P-e-n-z-o-r, your Honor.

MR. GOULD: I object to that, your Honor. It is either material to the case or it goes to credibility. I respectfully suggest that it does neither.

THE COURT: Offhand, Mr. Sorkin, I don't see any relationship to either the substance of this case or credibility. I have to agree.

MR. SORKIN: Mr. Allen has testified that he had numerous conversations with Mr. Doonan. I think I have a right to bring out what he said to Mr. Doonan, who initiated

the conversations, when he spoke to Mr. Doonan --

THE COURT: I don't agree at all. We all understand that he had a number of conversations with Doonan and others, including yourself. That does not mean that everything that happened has got to come out here.

MR. SORKIN: I think it goes right to his credibility, what he said to Mr. Doonan.

THE COURT: We haven't heard anything in the case about Mr. Penzor. He hasn't volunteered anything about Mr. Penzor.

MR. SORKIN: I understand that, your Honor. There are certain areas that I think go to his credibility rather than to the facts of this case and I think I should be entitled to bring it out.

THE COURT: I already supported you generally on that but on this I can't see any conceivable connection even on credibility. Since he has not mentioned the gentleman I don't quite follow it.

I suggest you turn to something else and at the next recess if you want to make an offer of proof, I will hear it. This seems far fetched at the moment.

Q Let me direct your attention to February 13, 1974. Did you have a conversation with Mr. Doonan on that date?

1 A I don't remember -- I said many times. I don't
2
3 remember the exact dates, Mr. Sorkin.

4 Q Let me see if I can refresh your recollection.

5 MR. GOULD: Is this supposed to be a telephone
6 conversation or an actual conversation?

7 MR. SORKIN: This is a meeting at the courthouse
8 in the presence of Mr. Doonan, Mr. Carl Dier of the SEC
9 and Mr. Joseph Kelly of the SEC. Do you recall that conver-
10 sation?

11 THE WITNESS: I said many times I don't have the
12 benefit as you do of a diary. Apparently the Government
13 keeps one. I don't. How do you expect me to remember
14 precise dates?

15 Q Do you recall in February meeting with Mr. Doonan,
16 Mr. Drier, and Mr. Kelly --

17 A I had a number of meetings, yes.

18 Q Do you recall, Mr. Allen, at that meeting
19 mentioning the name Mel Hiller?

20 MR. GOULD: Just a moment. I am going to make
21 a suggestion. I think Mr. Kelly is in the courtroom and if
22 we are going to allow an incursion into this area maybe he
23 ought to be excluded, if he is going to be a witness.

24 MR. SORKIN: I can only answer that we do not
25 intend to call Mr. Kelly at this time. I think this was

raised before and I do not intend to call him.

MR. GOULD: I never raised it before.

THE COURT: If you tell us that he is not going to be called, that is that and let's go on.

Q Do you recall mentioning Mr. Hiller's name to Mr. Doonan?

A I may have. I would have to see documentation. I don't remember. I didn't say no or yes. I don't remember.

Q Do you recall mentioning Mr. Bonavia's name to Mr. Doonan?

A Yes, sir.

Q Do you remember mentioning Mr. Stoller to Mr. Doonan?

A Yes.

Q How about a company called Fleetwood of Panama?

MR. GOULD: I object to this. It is not material and it does not go to credibility. What difference does it make whether he did or did not?

MR. SORKIN: May I be heard at the side bar because this is going to stop the cross right now if I can't get into this area.

MR. GOULD: Is that a threat?

MR. SORKIN: No, it is not. It is not a threat.

MR. GOULD: Then don't say it.

2 THE COURT: May I point out that the problem is
3 very simple. You appear to make certain assumptions which
4 the rest of us can't make.

5 MR. SORKIN: Fleetwood has come up in this
6 case.

7 THE COURT: Again such a simplistic rule isn't
8 controlling. Fleetwood may have come up in this case but
9 I don't recall this witness mentioning it and we are just
10 going into something which I don't understand at all.

11 MR. SORKIN: May I be heard at the side bar?

12 THE COURT: I guess we will have to give you a
13 chance.

14 We will try it at the side bar and if need be
15 we will take other measures later.

16 (At the side bar.)

17 MR. GOULD: May I just say one thing. The reason
18 for my objection, your Honor, I reacted immediately when he
19 mentioned Hiller because obviously he can't impeach the
20 witness Hiller through him. That is why.

21 THE COURT: I understand you. The gentleman I
22 don't understand is Mr. Sorkin.

23 MR. GOULD: Thank you.

24 MR. SORKIN: Your Honor, this man from the moment
25 he began his cross examination has stated over and over that

1 everything he said to Doonan either was forced upon him by
2 me, and everything he said to me was forced upon him by me,
3 and everything he said to the Court was forced upon him by
4 me, and everything he said in front of the grand jury that was
5 false was forced upon him by me.
6

7 I intend to elicit from this witness that he had
8 dozens of conversations in which he voluntarily offered
9 conversations with no pressure, he offered this testimony
10 because he was cooperating.

11 There were no threats and there were memos that
12 were repeatedly made by Mr. Doonan when he walked in and
13 made the voluntary admissions.

14 THE COURT: May I suggest to you from your own
15 point of view if this is what you are trying to do you
16 certainly lose it on me. None of us could tell that.

17 MR. GOULD: On that point, your Honor, nobody
18 suggests that everything he said was forced on him. This
19 becomes an absurdity. We can't test every single word he
20 ever communicated to Doonan or anybody else in the Govern-
21 ment.

22 THE COURT: Let me put it to you this way, Mr.
23 Sorkin. I want to give you latitude because of the unique
24 circumstances with which we are faced in this case. When I
25 say we, perhaps I should say more precisely for the present

1 purpose, your office. But believe me, I am supposed to be
2 a professional lawyer. You are certainly not making it
3 clear to me. What do you think you are doing with a bunch
4 of people like our jury? I don't understand you.
5

6 MR. SORKIN: I am trying to get from this witness
7 that he volunteered information without pressure --

8 THE COURT: I will allow you to get into that but
9 I would not do it this way.

10 MR. SORKIN: He said yesterday that most of the
11 times it was me who told him what to say.

12 THE COURT: He said a lot of things. I under-
13 stand that. What I am saying is when you ask about a man
14 named Harry Penzor, that leaves me cold. I am taking notes.
15 I know something about this case. What about the jury?
16 Haven't you thought about this?

17 MR. SORKIN: I have, your Honor. With all due
18 respects to the Court, your Honor, there was information,
19 testimony elicited from Mr. D'Onofrio about the Vatican, the
20 Amitalia Fund, D'Onofrio and Herbert and things that never
21 even came out on direct and it was used solely to impeach him.

22 THE COURT: I won't deny that. What I am saying
23 to you is that you are going to have two troubles. First
24 you are going to have these objections. Second of all,
25 you are going to have the Judge absolutely flabbergasted

1 jga 9

Jerome Allen - cross

2713

2 because he can't see what in the world you are doing from
3 your own point of view. I would think of those two things
4 if I were you.

5 MR. SORKIN: That is what I am trying to do. If
6 the Judge is ruling against me --

7 THE COURT: Wait a minute.

8 I suggest to you that there is a way of doing
9 this without getting into this problem and I will support
10 you on it. But I am not going to sit here listening to
11 this kind of question because I believe the defense has every
12 right to object to this. I mean Harry Penzor being the law
13 clerk's friend or somebody's friend, who cares about that
14 garbage?

15 MR. SORKIN: That is a conversation that was
16 volunteered. No one forced him to come forward and say
17 that.

18 THE COURT: You miss the point again, Mr. Sorkin.
19 I don't want to wrangle with you. I am suggesting to you that
20 the way you are doing this is totally misleading and
21 ineffective from your point of view. Moreover, I am going
22 to sustain objections to inane questions like this.
23 On the other hand, there is a way to inquire of this man as to
24 whether or not he would agree that he volunteered certain
25 information.

1 jqs 10

Jerome Allen - cross

2714

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MR. GOULD: He answered that yesterday.

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That was asked and answered.

4

MR. SORKIN: He says he doesn't remember what
5 he volunteered.

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THE COURT: I will let you put it to him again
7 and see what happens.

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MR. SORKIN: All right.

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(In open court.)

Q Mr. Allen, let's go back to February 13 and now I will ask you February 19, two dates.

Do you recall meeting Mr. Doonan on those two dates?

A The dates flow into each other. I recall meeting with him, yes.

Q Were you asked by him to come down to the courthouse or did he ask -- or did you come down voluntarily?

A The normal procedure was that either you or he would ask me to come down.

Q When you met with him, did you volunteer information to him?

A I answered questions.

Q Did you volunteer additional information?

A If asked.

Q If asked.

Now --

THE COURT: Wait a minute. Let me make sure you understand what he is trying to get at.

Is it your position that you never said a word unless you were asked?

A I can't make it that blanket, your Honor.

THE COURT: That's what he's trying to find out.

1 gawe Jerome Allen - cross 2716

2 You listen carefully here because this isn't
3 just for fun and games, you know.

4 THE WITNESS: Are you relating to Training, your
5 Honor?

6 THE COURT: Anything.

7 THE WITNESS: I understand.

8 THE COURT: I want to make sure you do because
9 we are not doing this for the fun of it, you know, Mr. Allen.

10 THE WITNESS: I understand, your Honor.

11 THE COURT: All right.

12 Let's go back and put this again.

13 Q Do you remember what questions Mr. Doonan asked
14 you on those dates?

15 MR. GOULD: I object to that, your Honor.

16 A No, sir.

17 MR. GOULD: Just a minute.

18 THE COURT: I will sustain that objection. The
19 reason I allow you to go back, Mr. Sorkin, was not to go to
20 something else like that. Don't you understand what's going
21 on here?

22 MR. SORKIN: I do, your Honor.

23 THE COURT: Let's do it.

24 Q Mr. Allen, tell us, please, if you recall your
25 conversation with Mr. Doonan on February 13, and February 19?

1 gawe Jerome Allen - cross 2717

2 A No, sir.

3 I told you I had many conversations. I can't
4 pinpoint a date and what I said.

5 MR. SORKIN: May we have this marked, please.

xx

6 (Government's Exhibit 118 marked for identifi-
7 cation.)

8 Q Would you look at Government's Exhibit 118, Mr.
9 Allen, for identification. I will ask you if this refreshes
10 your recollection as to what you told Mr. Doonan on those
11 particular dates?

12 A Some of it does and some I don't recall saying.

13 Q Why don't you look at the entire document,
14 several pages?

15 A I'm sorry.

16 Q Several pages.

17 A Yes. Some of these things I remember saying
18 but there's one sentence here I never said.

19 Q Would you read --

20 MR. GOULD: I --

21 MR. SORKIN: Let me ask the question, Mr. Gould.

22 MR. GOULD: Just a minute, Mr. Sorkin.

23 Your Honor, he thinks he has some kind of special
24 priority and I am offensive if I object. I was going to
25 move to strike out the answer as being not responsive. I

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Jerome Allen - cross 2718

think that is consistent with my professional duties in this courtroom and I don't have to get lectured by him on that.

THE COURT: I will grant that application.

MR. SORKIN: No one is arguing, Mr. Gould.

THE COURT: Gentlemen, that is enough of that. Your editorial comments will also be disregarded and cast into oblivion because we don't need them. Mr. Allen, the problem really comes down to this. Mr. Sorkin is showing this to find out whether or not that refreshes your recollection.

THE WITNESS: Yes, sir.

THE COURT: So don't volunteer anything because that triggers quite properly an objection on the part of defense counsel. You see.

THE WITNESS: I recollect this conversation.

THE COURT: All right.

Next question, Mr. Sorkin.

Q Have you looked at the entire exhibit?

A The first two pages. How many pages do you want me --

Q Why don't you look through all the pages?

A I thought it stopped here.

Q No, look through all these pages, Mr. Allen, and see if you recall.

1 gawe

Jerome Allen - cross

2719

2 A Mr. Sorkin, how far through this series of papers
3 do you want me to go to?

4 Q Why don't you go to right here.

5 A To the end of the white pages?

6 Q That's correct, right here.

7 A Okay.

8 Yes, I recall -- there may have been a series of
9 meetings, but I recall.

10 Q Tell us what was said, Mr. Allen?

11 MR. GOULD: I object to that.

12 Q What do you recall, Mr. Allen?

13 MR. GOULD: I object to that.

14 THE COURT: I agree on both. We can't have it that
15 open ended, Mr. Sorkin.

16 Q Tell us, Mr. Allen, now after looking at this docu-
17 ment what you recall of the conversations --

18 MR. GOULD: Same objection.

19 THE COURT: It is the same point, Mr. Sorkin.

20 Q Tell us what in here you do recall?

21 MR. GOULD: Same objection.

22 THE COURT: Yes, Mr. Sorkin. Look, I have made a
23 ruling which is abundantly clear and you keep running around
24 it. That is not fair, please.

25 MR. SORKIN: I'm merely attempting to find out --

1 gawe

Jerome Allen - cross 2720

2 THE COURT: I know what you are attempting to do.
3 That doesn't mean the way you are doing it is sound in my
4 view.

5 Please, when I rule I do it for a reason, not
6 because I'm trying to be hostile to you, but it is my job.

7 Let's not continually try to run around it.

8 MR. SORKIN: Your Honor, believe me, I am not.

9 THE COURT: Don't put in effect the same question
10 four times.

11 Q Do you recall now what you told Mr. Doonan?

12 MR. GOULD: Same objection.

13 THE COURT: I agree. This is the fifth time.

14 MR. SORKIN: I'm trying to abide by the Court's
15 ruling.

16 THE COURT: I'm sorry. Maybe you are trying, but
17 you are not succeeding.

18 Q Do you recall meeting with him on those dates,
19 Mr. Allen, 2/13, 2/19 --

20 A You gave me the dates. I said I recall meeting
21 with him, yes.

22 Q On those dates?

23 A You gave me the dates.

24 I don't recall.

25 Q This doesn't refresh your recollection?

1 gawe Jerome Allen - cross 2721

2 A I said I recall meeting with him but not on those
3 dates. You gave me the dates, but I recall meeting with
4 him.

5 Q Let me ask you this: Do you recall now after
6 looking at this document, meeting with Mr. Doonan on
7 February 13 and February 19, 1974?

8 A I recall meeting with him, yes, sir.

9 Q After looking at this document, Mr. Allen, do you
10 recall what you volunteered to Mr. Doonan in response to
11 his questions?

12 MR. GOULD: Same objection, your Honor.

13 THE COURT: Mr. Sorkin, we just can't have this
14 open endedness.

15 MR. SORKIN: I would like to ask him a specific
16 question, your Honor, in there. He says he doesn't recall.
17 He doesn't recall the entire conversation. Some he does
18 recall, some he doesn't.

19 THE COURT: There's a way of doing that but you are
20 not doing that at all. From your own point of view I don't
21 understand it.

22 Q Mr. Allen, would this refresh your recollection as
23 to the meeting --

24 MR. GOULD: No, your Honor.

25 Q --with Mr. Doonan those dates?

1 gawe

Jerome Allen - cross

2722

2 MR. GOULD: If counsel proposes to read from this
3 memorandum, your Honor, it is literally a defiance of the
4 Court's ruling.

5 MR. SORKIN: I do not intend to read from it,
6 Mr. Gould.

7 THE COURT: I don't think that he does, Mr. Gould.
8 So I wish you wouldn't make that assumption. I'm not making
9 it.

10 MR. GOULD: I only heard what I heard, does this
11 refresh your recollection, with the memorandum in his hand.

12 THE COURT: Fine. The question can be answered
13 yes or no. I really wonder sometimes what we are up to.

14 It does, doesn't it?

15 THE WITNESS: Yes.

16 THE COURT: Next question.

17 Q Mr. Allen, do you recall telling Mr. Doonan
18 in that conversation that you paid Mr. Herbert \$1,000 to
19 destroy your bank records?

20 MR. GOULD: I object to that, your Honor.

21 A No, sir, that isn't even what it says in there.

22 THE COURT: Mr. Allen, you knew that counsel
23 objected. You have been told about this --

24 THE WITNESS: May I apologize.

25 THE COURT: --half a dozen times now.

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Jerome Allen - cross

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A I'm sorry.

MR. GOULD: In the light of the answer, I will withdraw the objection.

THE COURT: I am going to expunge it. However, Mr. Sorkin, again, may I suggest to you there's a better way of doing this.

MR.SORKIN: Your Honor, I am attempting to abide by the Court's ruling. It is my understanding it refreshes his recollection as to what was said. I am asking him now what he said --

THE COURT: Now you can ask him, do you recall what was said about such and such. I will allow that. You won't do it.

Q Mr. Allen, tell us, please, what was said about Mr. Herbert.

A In view --

MR. GOULD: I have to object as to the form. I suppose it should be what, if anything, was said.

THE COURT: Technically, Mr. Gould, I per force would agree, but ten minutes after the event in this I think I'm going to allow this somewhat imperfect approach.

MR. GOULD: Thank you, sir.

Q Mr. Allen, what was said in connection with Mr. Herbert or about Mr. Herbert?

1 A The document you just had me re-read has a
2
3 reference in there --

4 THE COURT: No.

5 Q It is not the question.

6 THE COURT: That is not the question. You listen
7 to me, Mr. Allen, and you would be a lot better off if
8 you wouldn't be doing things your way instead of the way you
9 are instructed.

10 Don't tell us what the memo says. There are
11 technical rules of evidence about which you know nothing.

12 A Yes, sir.

13 THE COURT: I'm not blaming you for that, but
14 that's the fact. You haven't told us you are a practicing
15 attorney in one of these courts. You may not like it and you
16 may be right, but let's do it our way, we have to.

17 THE WITNESS: I just was confused, your Honor.

18 THE COURT: All right. Let's go back.

19 Q Tell us please, Mr. Allen, what you said to
20 Mr. Doonan about Mr. Herbert?

21 A I believe at this meeting or the second meeting --
22 you mentioned two meetings -- I told Mr. Doonan that Freddy
23 Herbert had a problem with the second mortgage and I let him --
24 and he borrowed \$36,000 from me.

25 MR. GOULD: I now move to strike out the answer on

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Jerome Allen - cross

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2 the ground that it is irrelevant, immaterial, has nothing
3 to do with this case, is improper cross examination.

4 THE COURT: I am going to deny that motion now.
5 I am going to give counsel a little latitude here. If you
6 choose to renew this later, which you may, we will see what
7 happens then.

8 MR. GOULD: Thank you, sir.

9 Q Did you tell Mr. Doonan anything else about Mr.
10 Herbert, Mr. Allen?

11 A I believe I told Mr. Doonan -- he asked me if
12 I knew or if Mr. Herbert knew the code names of other people
13 who had accounts at the bank.

14 Q Anything else?

15 A I don't recall specifically.

16 Q You don't recall any other conversation?

17 A Well, your question --

18 Q Let's stay with Mr. Herbert.

19 Anything else about Mr. Herbert?

20 A I don't recall what I said. What I read there
21 I didn't say.

22 Q What you read here you didn't say?

23 A Not all of it. Some of it I said, some I did not
24 say.

25 Q Why don't you tell us what you said.

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Jerome Allen - cross

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2 MR. GOULD: Your Honor, I'm at my wit's end as
3 to how to deal with this. It is a collateral matter
4 obviously. It is improper.

5 THE COURT: If this is the objection, I quite agree
6 with you.

7 MR. GOULD: It is a cry of pain.

8 THE COURT: Mr. Sorkin, I think you ought to
9 reflect on that.

10 Q Was anything else said about Mr. Herbert other
11 than the mortgage that you just mentioned?

12 A My loan to Mr. Herbert?

13 Q Yes, anything else about Mr. Herbert?

14 A You asked me --

15 Mr. Doonan asked me -- I'm sorry -- if Mr. Herbert
16 knew the names of people who had coded accounts at the bank.

17 Q Let's stay with Mr. Herbert.

18 Did you tell Mr. Doonan anything else where
19 Mr. Herbert's name was mentioned?

20 A I don't believe I did, but I can't swear to that.
21 You have the benefit of the memorandum, I don't.

22 THE COURT: This isn't the benefit test. If you
23 don't remember, say so.

24 THE WITNESS: I don't remember, your Honor.

25 THE COURT: All right.

gawe Jerome Allen - cross 2727

Q Do you recall telling Mr. Doonan or mentioning to Mr. Doonan anything about accounts Erika and Shirley?

A Yes, sir.

Q Tell us what you said to Mr. Doonan?

A I told him that Erika was a name I used for convenience and Shirley was a name that Mr. Stoller used, which I previously testified to.

Q Do you recall telling Mr. Doonan that you transferred \$150,000 each from Erika and Shirley to a bank called North Finance?

A I transferred?

Q No.

Do you recall telling Mr. Doonan that? Yes or no.

A That who transferred? Make yourself clear.

Q I will. I will repeat it again.

Do you recall telling Mr. Doonan that \$150,000 was transferred each from account Shirley and \$150,000 from account Erika from Bank Hofmann to North Finance in the name of Fleetwood of Panama?

A I told Mr. Doonan I transferred my money from the Bank Hofmann to North Finance.

Q Did you mention Mr. Stoller?

A I mentioned Mr. Stoller, but I don't believe in

1 gawe Jerome Allen - cross 2728

2 terms of transferring funds.

3 Q What did you say about Mr. Stoller? Let's
4 confine ourselves just to this particular transfer, nothing
5 else.

6 A He asked me what Mr. Stoller's code name was.

7 "I said Shirley."

8 He asked me if I knew of Mr. Stoller's activities
9 in his account.

10 I said, "You would have to ask Mr. Stoller."
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Jerome Allen-cross

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Q Anything else in connection with Mr. Stoller?

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A Not that I can recall. He may have asked me if he had other accounts. I don't remember that, Mr. Sorkin.

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Q Do you recall any conversation where this \$150,000 was transferred to Nord Finance in the name of Fleetwood of Panama?

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A I just said I transferred \$150,000 from Bank Hofmann to Nord Finance. I said I did and I did make the transfer.

11

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MR. SORKIN: May we have this marked as Government Exhibits 119 and 120.

xxx

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(Government Exhibits 119 and 120 were marked for identification.)

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Q Mr. Allen, let me show you Government Exhibits 119 and Government Exhibits 120 and I ask you if you can identify those documents?

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A Yes, sir. These are my barrier shares in a company that was formed called Fleetwood of Panama at the Nord Finance Bank.

21

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Q Did you give those certificates to Mr. Doonan?

A Yes, I did.

MR. GOULD: Your Honor, I object to this. This is obviously a collateral situation.

Q Did Mr. --

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THE COURT: Just a moment, Mr. Sorkin.

MR. SORKIN: I am sorry, your Honor.

THE COURT: Yes, sir.

MR. GOULD: I think this is collateral. This has nothing to do with this case.

THE COURT: Well, so far I would have to agree with you from what I have heard, but I have told you and Mr. Sorkin I am going to give him some latitude. You have on the record a motion to strike all of this. I have denied it for the time being. It may be that I will have to grant it. Hopefully we are going to come to the point here sooner or later. I hope sooner.

Q Mr. Allen, did you give those to Mr. Doonan?

A Yes, I did.

Q Did he threaten you or force you to give those documents to him?

MR. GOULD: Same objection.

THE COURT: Overruled.

A No, sir.

Q You voluntarily gave those documents to him, is that correct?

A Yes.

Q Just yes or no.

A Yes.

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Jerome Allen-cross

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Q Did I force you or threaten you to turn those documents over to Mr. Doonan?

A Yes.

Q Did you tell me you had such documents first?

A You asked me if I had them.

Q And I forced you to turn them over --

A You said any document I had that would be of interest to the Government you had better turn in, including personal letters.

Q When did I tell you this, Mr. Allen?

A Right after I came back from Switzerland.

Q That is the January 15th meeting?

A Withholding information --

Q Please, just answer. Withholding information, we will get to that. At this January 15th meeting --

A Meetings also after it. I practically lived in your office.

Q You lived in my office.

How did you come down here, Mr. Allen, to my office?

MR. GOULD: If your Honor please, I really think this is --

THE COURT: Sustained.

Q Mr. Allen, what certificate numbers are those?

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Jerome Allen-cross

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A 1 and 4.

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Q Didn't you tell Mr. Doonan that 2 and 3 are in the possession of Mr. Stoller?

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A Yes.

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Q Did you tell Mr. Doonan that Mr. Stoller had an interest in Fleetwood of Panama?

7

8

MR. GOULD: If your Honor please, I object to the question. I ask the Court to direct counsel not to pursue it. If he asks another question on this subject, I am going to be forced to move for a mistrial. This is prejudicial, improper.

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THE COURT: I must say in respect to this, Mr. Sorkin-- just a minute, before I rule on this, I think it is high time you showed me this memorandum so that I have some understanding of this last question.

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MR. SORKIN: I certainly will, your Honor. That was the paragraph I was referring to, your Honor (handing).

19

(Pause.)

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THE COURT: I am going to sustain that objection, but I think perhaps to avoid any more delays like this and these continued objections and rulings and so forth, it might be wise if we took a recess and I will have to talk to you gentlemen again, because I don't think that you understand really what underlies part of the defense's objections which I am prepared to sustain them on as I think I must.

1 gab-5
2 Mrs. DeBartola and ladies and gentlemen, I
3 hope you will forgive us. I will try to keep this as brief
4 as I can, five minutes, I hope.

5 (Jury absent.)

6 THE COURT: Mr. Sorkin, it apparently has not come
7 through to you at all. Several facets of this problem
8 just seem to escape you. I can well understand that because
9 this has degenerated into a credibility match as between
10 you and your office certainly, and this witness, and one cannot
11 help but sympathize with your plight to a degree.

12 You seem to be losing sight we are trying a law-
13 suit which is subject to certain considerations and rules
14 which unfortunately pertain, whether you like them or not.

15 Now, one of the reasons why Mr. Gould is objecting
16 here is that this has become sort of a scatological recitation
17 of a lot of little nitty-gritties and little dirties about
18 these gentlemen, one of whom is here on trial.

19 Now these things happen, I know that. I have
20 had some experience, believe it or not, in these matters.
21 These things happen. I am not blaming you for that.

22 However, what I do say is, it becomes a problem
23 with the sanctity of this as a jury trial and here is why.
24 I will spell it out for you. I don't think I should
25 have to, but I feel sorry for you. You are in an unusual

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Jerome Allen-cross

spot.

Let's take this Fleetwood business. This Fleetwood business involves something which has to do with Stoller. I could tell this jury 100 different ways to disregard this as far as Stoller is concerned, but I have no assurance it would do one iota of good. Normally, in other words, as you and I would agree, we wouldn't be doing things this way, but for the peculiar circumstances of Jerome Allen coming in here and saying what he is now saying.

I intend to steer a careful line and I am not going to allow you to pour through on somebody else. It may well be the truth that Stoller did this and it may be the truth that Stoller had a girl friend and it may be the truth all kinds of things, but I am not going to allow this device and this cross-examination to get into that.

I think it is unfair to Stoller. Now, that is why Mr. Gould, among other reasons, has objected. I am going to support him on that. I have to as I see it.

MR. SORKIN: Your Honor --

THE COURT: You see, you bring all this on your own shoulders. There are ways of doing this which you don't seem to understand. I asked your office to send somebody up to help you. If they can't help you, God help you, because I am not in the position of helping

1 counsel in these cases.

2
3 MR. SORKIN: I apologize to the Court. I
4 think I understand Mr. Gould's objection and I think I
5 understand what your Honor was saying.

6 THE COURT: Why do you continually repeat the same
7 kind of thing?

8 MR. SORKIN: Because we are trying to get from
9 this witness, your Honor, the fact that for eight months he
10 was telling us information in good faith.

11 THE COURT: I understand, Mr. Sorkin. You see,
12 all you are doing is arguing with the Judge, arguing with
13 Allen, arguing with Gould. It isn't helping you.

14 MR. SORKIN: I don't want to, your Honor.

15 THE COURT: You don't accept my rulings. You
16 plow through them like I never made them. Five times you
17 ran around one of them. I am not used to having U. S.
18 Attorneys do that. Defense lawyers, yes, sometimes I admit
19 they do, but U. S. Attorneys, no.

20 MR. SORKIN: I sincerely apologize.

21 THE COURT: That is not your burden, to run around
22 Judge's rulings even when he is wrong in your view, and
23 even when it is God's view he is wrong.

24 MR. SORKIN: I apologize, your Honor.

25 THE COURT: It makes me a little uneasy.

1 gab-8

Jerome Allen-cross

2 MR. SORKIN: I am sorry. I don't think, your
3 Honor, there is any other way that we can --

4 THE COURT: There is. There certainly is.
5 Your questions are so crudely drawn that my Labrador retriever
6 would object if he were here. I am sorry to be rude, but
7 that's it.

8 MR. SORKIN: Your Honor, I don't mind. I just
9 would like to state that if Mr. Allen's recollection is not
10 refreshed as to what he told Mr. Doonan, what he volunteered
11 repeatedly, then I have some difficulty in getting out of him
12 what he volunteered.

13 THE COURT: If I agreed with you at some point,
14 I would agree with you, but I don't.

15 Mr. Allen has every right to be mystified by
16 your approach, because I constantly, if I were representing
17 the Government, I would like to get up and object to your
18 questions, too. That is what baffles me.

19 MR. SORKIN: I don't know of any other way other
20 than to ask Mr. Allen, your Honor, if he recalls the con-
21 versation, show him the document and ask him what in the
22 conversation he recalls that was volunteered to Mr. Doonan
23 or what was told to Mr. Doonan by him.

24 THE COURT: No. Even accepting that, you haven't
25 even done that. Mr. Sorkin, you apparently have one thing

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Jerome Allen-cross

1 in mind, but the words that come out are different. I
2 sympathize with you. I have said that. I really do. You
3 are in a very unusual posture. I am very unhappy for you
4 and for everybody else, but that doesn't mean we abandon the
5 rules.
6

7 MR. SORKIN: I will try to abide by your Honor's
8 ruling. I am sorry.

9 THE COURT: I know you are sorry. I know you
10 don't mean this. That I have tried to tell you one hundred
11 times.

12 I insist that Mr. Gould has a right to object
13 and I have to rule. You don't seem to accept that.

14 MR. SORKIN: I do, your Honor. I do.

15 THE COURT: Second of all, Mr. Allen has a right
16 to be baffled by your questions. I don't understand half
17 of them. They make no sense to me.

18 Third of all, I want you to realize that you
19 shouldn't put questions to him about Fleetwood or about
20 Jill Bloch, which you haven't done but I am afraid you might.

21 MR. SORKIN: I will not, your Honor.

22 THE COURT: And things like that. All that
23 does -- this poor little man, he is not a lawyer, he tries to
24 play like one once in a while, but he isn't one.

25 MR. SORKIN: Your Honor, I am under the

1 gab-10

Jerome Allen-cross

2 impression that Fleetwood was introduced into this case
3 by Mr. Gould --

4 THE COURT: Fine, but you don't have to do it the
5 way you are doing it.

6 MR. SORKIN: I don't know of any other way other
7 thanto ask him, did he mention Fleetwood to Mr. Doonan.

8 THE COURT: You have help here. There is a way
9 of doing this. Take Fleetwood. I would permit, for example,
10 a question, do you recall telling Doonan in words or substance
11 that you transferred a sum of money to Bank Hofmann and then
12 in turn that was transferred to other banks later, but don't
13 ask him to control the lawsuit. He will blurt out some-
14 thing maybe about Stoller and then you will have a mistrial
15 motion on your hands.

16 MR. SORKIN: I understand that, your Honor. I
17 can't get around the fact that Mr. Allen claims that we
18 forced him to talk about Stoller and I have got to try to
19 bring out of him that he volunteered information about Stoller
20 completely unsolicited by the Government.

21 THE COURT: I have tried all I can, Mr. Sorkin.
22 I can't seem to come through to you that there is a line
23 to be drawn here. I sympathize with your concerns. I
24 want to support you. I recognize on the other hand that
25 Mr. Gould is here, he represents a client, he is entitled to

1 gab-11

Jerome Allen-cross

2 represent him.

3 MR. SORKIN: May I have a short recess, your
4 Honor?

5 THE COURT: I think you better make it quick.
6 There are august senior people from your office who I
7 hope see the line. Talk to them.

8 (Pause.)

9 Gentlemen, while we are doing this, it occurs
10 to me that I was assuming the morning was earlier than it was.

11 What would you think if we recessed now for
12 luncheon and Government counsel can get a little more time
13 to reshape things.

14 MR. GOULD: I wouldn't want to interrupt this
15 conclave which is going on. I wish I could enjoy the luxury
16 of this kind of deliberations some time.

17 MR. FELDSHUH: I have had no breakfast, your
18 Honor.

19 THE COURT: Can I interrupt for a moment. I hadn't
20 realized, Mr. Sorkin, the hour. Why don't we suspend for lunch
21 now and resume promptly at five of 2:00, and this will give
22 everybody one hour and 15 minutes for luncheon.

23 MR. SORKIN: Fine.

24 (Luncheon recess.)
25 -----

(In open court; jury present.)

J E R O M E A L L E N resumed.

THE COURT: All right, Mr. Sorkin.

MR. SORKIN: Mr. Gould is not here, your Honor.

THE COURT: All right, I am sorry.

MR. GOULD: Thank you, your Honor.

CROSS-EXAMINATION (continued)

BY MR. SORKIN:

Q Mr. Allen, I think you testified yesterday that when you went before the grand jury on February 14, 1974, some answers you gave were true and some answers you gave were false, is that correct?

A Yes, sir.

Q Mr. Allen, do you recall being asked this question and giving this answer:

"Q Now am I correct, Mr. Allen, that in or about the summer and early fall of 1968 you had a conversation with Mr. D'Onofrio and the substance of this conversation was that Mr. D'Onofrio had a deal, the deal was a security called Training With the Pros and you agreed with Mr. D'Onofrio and Mr. Stoller that you would take down a block of the offering, park the stock in your secret coded account and when the stock had risen to a higher price sell that stock

1 to Mr. Weissinger and Mr. Bonavia in their coded accounts?

2 "A Yes, sir, that is essentially correct.

3 "Q In substance?

4 "A In substance, yes, but we may have wanted to
5 use someone else besides them but essentially that is abso-
6 lutely correct."
7

8 Were you asked those questions and did you give
9 those answers?

10 A Yes, I lied. I gave those answers.

11 Q The question was: Did you give those answers to
12 those questions?

13 A Yes, sir.

14 Q Do you recall being asked this question:

15 "Q And right from the beginning Mr. Herbert knew
16 as a result of conversation with you, Mr. Stoller and Mr.
17 D'Onofrio that you, Mr. Stoller and Mr. D'Onofrio had with
18 him that this was the deal, this was what was going to happen,
19 is that correct?

20 "A He was part of it, yes, sir.

21 "Q Now am I also correct, Mr. Allen, that in or
22 about October or November of 1968 you had a conversation with
23 Martin Frank who at that time represented you on certain
24 matters, is that correct?

25 "A Yes, sir."

1 Do you recall being asked those questions and
2 giving those answers, yes or no?

3 A Yes.

4 MR. FELDSHUH: May I have the page number of
5 that?

6 MR. SORKIN: Page 9, Lines 13 through 22.

7 MR. GOULD: This is grand jury question?

8 MR. SORKIN: Yes.

9 Q Do you recall giving those answers to those ques-
10 tions?

11 A Yes, sir.

12 Q And did you lie?

13 A Yes, sir.

14 Q Do you recall being asked this question, Mr.

15 Allen:

16 "Q And present at this conversation -- this is the
17 one with Mr. Frank -- and indeed there were many conversations,
18 is that correct?

19 "A There were a series right on through the rest of
20 the year into the next year.

21 "Q The next year being '69?

22 "A Yes.

23 "Q In substance the conversation with Mr. Frank --
24 and the conversations with Mr. Frank was that Mr. Frank advised
25

1 you, Mr. Stoller, and Mr. D'Onofrio to use nominees, in
2 effect allow the nominees to purchase the stock on the
3 underwriting and then you would buy back the stock from
4 the nominees and purportedly sell the stock to Bank Hofmann
5 at a little higher price when in effect you would be selling
6 to yourselves and your own accounts?
7

8 "A That is correct, yes."

9 Were you asked that question and did you give
10 that answer?

11 A Yes.

12 Q Was that the truth?

13 A No, that is the answer you told me to give.

14 Q Was that the truth?

15 A No, it was a lie.

16 MR. FELDSHUH: What page?

17 MR. SORKIN: Page 10, Lines 5 through 14.

18 Q Now, Mr. Allen, Page 12, Line 3:

19 "Q Now with respect to Mr. Frank, am I correct that
20 you, Mr. Stoller, and Mr. D'Onofrio, told him on a number of
21 occasions how the whole deal was to be done and that Mr.
22 Frank knew that the stock was going to be parked in
23 Switzerland into your coded accounts and he knew the entire
24 setup of the transaction?

25 "A Oh, yes, because he had an account at the bank

also and wanted some stock.

"Q Now am I correct that Mr. Frank's secret coded account at Bank Hofmann was code named Lance?

"A Yes, sir."

Do you recall being asked those questions and giving those answers?

A Yes.

Q And did you lie before the grand jury?

A Yes, sir.

Q Now, Mr. Allen, do you recall being asked this question and giving this answer:

"Q Now am I correct, Mr. Allen, that on or about February 25, 1969, Mr. Stoller delivered the approximately 15,000 shares to Fred Herbert at Bank Hofmann to be deposited into Erika, Shirley and Gypsy?

"A Yes, sir, he went to Switzerland. I recall he brought the stock. There is a remote possibility it may have been mailed to him, but he went to the Baur au Lac Hotel and as I recall he brought the certificates with him."

Do you recall being asked that question and giving that answer?

A Yes, sir.

Q Was that a lie?

A Yes, sir.

1
2 Q Now, Mr. Allen, do you recall being asked this
3 question and giving this answer:

4 "Q Am I correct that in substance Deetjen would
5 not transfer the stock into street name because Deetjen
6 didn't know who these people were, meaning your nominees
7 and Mr. Stoller's nominees and Mr. D'Onofrio's nominees.

8 "A They didn't know who they were and they sort of
9 suspected. There was an aroma. He was an intelligent
10 fellow in Switzerland and he complained to the bank that it
11 didn't sound right, you better get the certificates endorsed
12 or guaranteed."

13 Do you recall being asked that question and
14 giving that answer?

15 A Yes.

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1 Q Was that a lie?

2 A Yes, sir.

3 Q In all these occasions, Mr. Allen, when you lied
4 you were under oath, weren't you?

5 A Yes, sir.

6 Q Do you recall being asked this question and giving
7 this answer:

8 "Q Am I correct that with respect to your nominees,
9 Mr. Allen, Martin Frank notarized your nominees' receipts,
10 receipts were prepared and he did not date those receipts
11 when they were notarized?

12 "A I don't believe he dated them, no. I believe he
13 put a stamp on them.

14 "Q Am I correct that he also stamped the receipt
15 where you say in substance that on such and such a date you
16 sold 5,000 shares to Bank Hofmann?

17 "A That is correct, yes.

18 "Q And am I correct that these receipts were back-
19 dated?

20 A "Oh, yes, they had to be."

21 Do you recall being asked those questions and
22 giving those answers?

23 A Yes, sir.

24 Q Mr. Allen, were those lies?

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Jerome Allen - cross

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A I repeated what you told me to say and they were lies.

Q Were they lies, Mr. Allen?

A You told me to say it --

Q Were they lies?

A Yes, they were lies.

Q Were they lies?

A You know.

Q Mr. Allen, were they lies?

A Yes.

Q Now, Mr. Allen, on page 15, line 10, do you recall being asked this question and giving this answer:

"Q You knew Mr. Stoller knew, Mr. Herbert knew, Mr. D'Onofrio knew, indeed Mr. Frank knew in effect it was a sham transaction and the purpose of it was to just get Deetjen to transfer the stock into street name, is that correct?

A Yes.

Q You were going to say something?

A Phil, myself, Martin and Freddy didn't really want to go ahead and notarize it this way because we knew it would eventually lead to trouble. Deetjen refused delivery unless it was done."

Do you recall giving those answers to those

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Jerome Allen - cross

2748

questions, Mr. Allen?

A Yes, sir.

Q And were they lies?

A Yes, sir.

Q Mr. Allen, page 16, line 21, do you recall
being asked this question and giving this answer:

"Q Am I correct that Mr. Herbert in the Training
With the Pros deal as well as all other deals that you,
Mr. Stoller, Mr. D'Onofrio were in, received a flat 10
per cent of the top of each of the coded accounts that he
managed?

"A We gave him each 10 per cent and it was collec-
tively received, ten per cent of the overall package.

"Q Ten percent of the overall package?

"A Each of us would give him ten per cent."

Did you give those answers to those questions,
Mr. Allen?

A Yes, sir.

Q Were they lies?

A Yes, sir.

Q Page 18, line 21.

"Q Now with respect to Mr. Frank, am I correct that
he received approximately \$15,000 which was credited to his
code name account Lance?

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Jerome Allen - cross

2749

A I debited my account and I gave him 15,000 to be transferred into Lance within the bank itself."

Do you recall being asked that question and giving that answer, Mr. Allen?

A I recall being rehearsed. I recall restating it just the way you wanted me to.

MR. GOULD: I didn't hear the first part of the answer.

May I have it read?

THE COURT: No, because I don't think it is responsive.

Once again, Mr. Allen, that is not the question. We know your position. You don't have to state it every time.

THE WITNESS: I jumped the gun and I am sorry, your Honor.

THE COURT: The question is do you recall those questions and answers?

THE WITNESS: Yes, sir. I am sorry I jumped the gun.

Q Were they lies, Mr. Allen?

A Yes, sir.

Q Did you ever have a conversation with Mr. Frank where you told him that you had transferred \$15,000 from

your account Erika to account Lance?

A No.

Q At any time within the past year?

A Not that I can recall. I repaid a debt.

Q Did you ever have a conversation with Mr. Frank where you told him that you had seen the slip showing the transfer from account Erika to account Lance?

A I don't remember any.

Q You don't remember any?

A I remember giving him \$15,000 to repay a loan where he was the conduit.

Q When was that, Mr. Allen? When was this conversation with Mr. Frank?

A I don't recall the exact date. I gave Frank \$15,000 to get back to a man named Al Brodkin.

Q A man named Al Brodkin?

A Al Brodkin, yes. I told you about this, you know about it.

Q Just a second, we will get to it.

When, Mr. Allen, did you transfer the 15,000 or give the \$15,000 to Mr. Frank in repayment for this loan?

A It was in '69. I don't remember the exact month.

Q Who is Al Brodkin?

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Jerome Allen - cross

2750a

A Is he now deceased. He was a friend of
mine, a person who lived in Toronto, a former boxer, tennis
player who was a sort of a professional investor.

2 Q What was this loan for?

3 MR. GOULD: I object to this, your Honor.

4 THE COURT: Yes. I don't think we have --

5 Q How was the transfer made?

6 MR. GOULD: I object to any questions along this
7 line.

8 THE COURT: Again, I will sustain that one, how
9 was the transfer made.

10 Q How did you repay the loan?

11 MR. GOULD: If your Honor has sustained an objec-
12 tion to the transaction, I would assume that --

13 THE COURT: I sustained an objection to the last
14 question. You are right.

15 MR. GOULD: Then it necessarily follows --

16 THE COURT: I don't know what is going to be
17 pursued.

18 MR. GOULD: I'm sorry, your Honor. I thought he
19 asked him how was the transfer made.

20 THE COURT: Mr. Sorkin often jumps in like this.
21 I was trying to respond to your objection.

22 MR. GOULD: I'm sorry. Same objection to the next
23 question.

24 THE COURT: What more can I say? Your next
25 question, please, Mr. Sorkin.

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Jerome Allen - cross

2752

2 MR. SORKIN: One moment, your Honor.

3 (Pause.)

4 Q Mr. Allen, the question I have for you is this:
5 You say you remember repaying the loan from Al Brodkin you
6 made Mr. Frank, is that correct?

7 A I told him to make sure the money got back to
8 Al.

9 Q Who did you tell? I'm sorry?

10 A I told Mr. Frank to make sure -- Al Brodkin
11 called me. He said he couldn't come to New York --

12 MR. GOULD: If your Honor please, I object and
13 move to strike out the answer.

14 THE COURT: Again, Mr. Allen --

15 A He asked me, your Honor.

16 THE COURT: No, I don't think so. I understand.
17 You may have misunderstood.

18 Let's disregard all this.

19 Start over again. You want to know -- what is it
20 you want to know? Put your question.

21 Q My question, Mr. Allen, is: when you repaid the
22 money, did you pay Mr. Frank by cash or check. How was the
23 repayment made?

24 MR. FELDSHUH: I object to that.

25 MR. GOULD: If your Honor please, I object to it.

1 gawe

Jerome Allen - cross

2753

2 First of all, as to its form, as to the inclusion of an
3 unsupported supposition in it and next on the ground --

4 THE COURT: I have no course but to sustain the
5 objection.

6 Q Mr. Allen, isn't it true that you often disguised
7 transfers in your secret Swiss accounts by calling these
8 repayments of loans?

9 MR. GOULD: I object to that, your Honor. It is
10 improper in form and no basis for it on cross examination.

11 THE COURT: I'm not so sure I agree with the
12 latter.

13 I think the question from your own point of view,
14 Mr. Sorkin, can be simplified and made direct.

15 Q Mr. Allen, did you ever at any time transfer money
16 from your secret Swiss account to another secret Swiss
17 account and then say that it was repayment for a loan?

18 MR. FELDSHUH: Objection.

19 MR. GOULD: I object to this your Honor, unless
20 it is related in some way to the case on trial.

21 THE COURT: Mr. Gould, I don't claim that this is
22 related directly in that sense at all. We are dealing here
23 with simply a credibility issue.

24 On this one I will allow the Government latitude.

25 Do you understand the question, Mr. Allen?

1 gawe Jerome Allen - cross 2754

2 THE WITNESS: Yes, your Honor.

3 THE COURT: All right.

4 A No.

5 Q Did you ever tell anyone that you did?

6 MR. GOULD: I object to that.

7 MR. FELDSHUH: Objection.

8 THE COURT: Overruled.

9 Q Did you ever tell anyone that you did?

10 A I don't recall.

11 Q You don't recall telling anyone that you did or
12 you don't recall that you did?

13 MR. GOULD: We don't have to have this rehearsal
14 of the answer, do we?

15 THE COURT: No, I agree. He's answered that, Mr.
16 Sorkin. He says he doesn't recall.

17 Q Let's go back to your grand jury testimony, Mr.
18 Allen, page 22, line 11. Do you recall being asked that ques-
19 tion and giving this answer:

20 "Q And am I correct that in on or about March
21 1969 Mr. Frank notarized or we should say purportedly notarized
22 these receipts, these documents you had?

23 "A To my knowledge, he notarized them after the
24 effective date not prior to the agreement. Whether it was the
25 second week in March or third, I don't remember exactly."

1 gawe

Jerome Allen - cross

2755

2 Do you recall being asked that question and giving
3 that answer?

4 A No, I don't, I don't remember that one, sir.

5 Q You don't remember that.

6 MR. SORKIN: I think this has already been marked
7 as Government's Exhibit 112. I have a copy of it.

8 Q Mr. Allen, see if that refreshes your recollec-
9 tion, line 11.

10 A I answer I don't remember. The same answer then
11 I give you now.

12 Q Let me ask the question.

13 A This reflects what I said. I said I don't remem-
14 ber.

15 Q You don't remember --

16 A I said it then and I say it now.

17 Q You don't remember being asked this question or
18 giving this answer?

19 A The answer is I don't remember and I say the
20 same thing now.

21 Q You do recall being asked the question?

22 A And I say I don't remember.

23 Q Mr. Allen, I think you testified yesterday on
24 direct examination that you had conversations, three or
25 four of them, with Marilyn Herzfeld.

2 Do you recall testifying to that?

3 A I said I believed I did.

4 Q Where did you have those conversations?

5 A Once or twice by phone and I think at -- at
6 Bud Moss' office, Mr. Sorkin.

7 Q Who else was present?

8 A I don't remember.

9 Q Was anyone else on the phone, an extension when
10 you spoke to Miss Herzfeld?

11 A I don't remember.

12 Q Where were you at the time, Mr. Allen?

13 A At what time?

14 Q When you spoke to Miss Herzfeld?

15 A Either in my office or some other office. I
16 don't know.

17 Q When did you talk to her?

18 A I don't remember the exact dates.

19 Q Approximate it for us.

20 A After the stock went public, I imagine. I don't
21 remember the exact date, Mr. Sorkin.

22 Q Didn't you tell us yesterday that you spoke to
23 her before the stock went public, Mr. Allen, because --

24 A I said I don't remember the exact dates. I said
25 maybe I did.

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Jerome Allen - cross

2757

Q Maybe you did what?

A Read back what I said.

Q Let's see if you recall it first.

MR. GOULD: If your Honor please, I think we have had enough of this. If he's going to be confronted with what he said yesterday, let him read the question and answer to him.

THE COURT: I would suggest that's the usual procedure, Mr. Sorkin.

MR. SORKIN: Very well, your Honor.

Q Page 2390, Mr. Allen. Mr. Gould asked you this question. Let me see if you recall being asked the question, line 8.

"Q Did you encounter a lady names Herzfeld at the offices of the company?

"A Yes, sir. I believe she was his secretary.

"Q Did you have conversations with Miss Herzfeld about the affairs of the company?

"A Yes, I did, sir."

Do you recall how many conversations you had?

A Are you asking me now or are you reading?

Q I'm asking you now. How many conversations did you have with Miss Herzfeld?

A Three or four, perhaps more.

1 gawe Jerome Allen - cross 2758

2 Q Where were you at the time you spoke to Miss
3 Herzfeld?

4 MR. GOULD: I object to this, your Honor. This
5 isn't proper cross examination in view of the stipulation
6 we have on the lady's testimony. I must respectfully
7 suggest it is a waste of time.

8 THE COURT: The stipulation you have, I don't
9 think necessarily it relates to this at all. Maybe it
10 does, but I don't think I have to assume it does.

11 MR. GOULD: Your Honor will recall the only
12 testimony of any consequence about Miss Herzfeld.

13 THE COURT: I don't think that I can evaluate
14 testimony as being more consequential than other testimony.
15 I', not the tryer of the facts. I will allow this. Go
16 ahead.

17 Q Mr. Allen, tell us where you were when you spoke
18 to Miss Herzfeld.

19 A I called her from my office or they had -- she
20 had an office -- rather Training did -- on the ground floor
21 of a hotel on, I think West 86th or 87th Street.

22 Q When did you call her?

23 A I called her once I became aware of the fact that
24 Training was going to go public.

25 Q When was that?

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Jerome Allen - cross 2758a

2 A I became aware of the fact that they were going
3 public either in late '68 or early '69.

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2 Q What did you tell her on the phone? What was
3 the conversation? What did she say to you and what did you
4 say to her?

5 A I asked her -- I think I -- I think I asked her
6 to send some prospectuses to me or red herring. I think
7 she told me that under Regulation A there is not a prelim-
8 inary prospectus of what you call a red herring.

9 Q But you knew what a Regulation A was at the time,
10 didn't you?

11 A At the time I didn't know it was going to go
12 a Reg. A until later down the road. I asked her if there
13 was a red heering. She said, "I don't believe so. We
14 will send you the prospectus."

15 I asked her how the outlook for the company
16 was and I asked her if at some future date I could bring
17 people in to see a Training film the company had prepared.

18 Q When was this? When was this next conversation?

19 A I don't remember the exact date. This goes back
20 five years.

21 Q I understand. We all know that.

22 Just tell us your best recollection as to when
23 the next time you spoke to her.

24 A The next meaning what, next after what?

25 Q After this first conversation.

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A I don't remember. Remember, I had 30 clients, spoke to hundreds of brokers. I can't recall.

Q Spoke to hundreds of brokers?

A On many, many stocks. I was a professional investment adviser.

Q Give us your best recollection, a month later, two months later, three months later?

A It would be a guess.

Q Give us a guess.

A I think I spoke to her in January -- I can't give you an exact date. You are asking for something I can't give you.

Q Let's go to the third conversation. When was the third time you spoke to her?

A I don't know if it was the third, fourth or fifth. You are asking me to pinpoint a conversation with someone on a date that I don't remember. Don't put words in my mouth.

Q You can't even give us the month?

MR. GOULD: I object to that, your Honor. There is no need to --

A I don't remember, Mr. Sorkin.

Q Did you ever meet her in person?

1 gab-3

Jerome Allen-cross

2 A Yes, I did.

3 Q Where did you meet her in person?

4 A In Bud Moss' office. I think she was secretary
5 of the company.

6 Q When was that?

7 A I remember talking to her with McGraw-Hill
8 officials after the company went public.

9 Q Did you ever see her before the company went
10 public?

11 A I don't remember that.

12 Q Mr. Allen, didn't you go up to her office in
13 December of 1968 and give her some names?

14 A I don't remember. I may have.

15 Q With Mr. Stoller?

16 A I don't recall that.

17 Q You don't recall going up to her office and giving
18 her the names of Joseph Arden and Sarah Striziver and Mildred
19 Stoller and Ruth Pollin and Delore Abramson, and asking
20 Miss Herzfeld to send out offering circulars to these people?

21 MR. GOULD: I don't know where to start on
22 this one. I mean, I think it is not only objectionable,
23 but I think it is appropriate that counsel be informed that
24 there is a correct way to ask a question of a witness and
25 that certainly wasn't it.

1 gab-4

Jerome Allen-cross

2 THE COURT: Rephrase it.

3 Q Mr. Allen, do you recall going to see Miss
4 Herzfeld prior to the effective date, which we all agree
5 was February 4, 1969, and giving her names of people so that
6 she can send indication letters to those people?

7 MR. GOULD: I object to its form, your Honor.

8 Q And telling her to send indication letters to
9 those people?

10 MR. GOULD: Same objection.

11 THE COURT: I think I will allow that.

12 A I don't remember, Mr. Sorkin.

13 Q Would it refresh your recollection if I told
14 you that Mr. Stoller went with you?

15 MR. GOULD: I object to that, your Honor.

16 A Are you telling me to --

17 MR. GOULD: Please.

18 THE WITNESS: I apologize.

19 THE COURT: I will sustain the objection as to
20 form. Y our position, Mr. Witness, I gather is you
21 just don't remember ever going there and giving this lady any
22 names?

23 THE WITNESS: I don't remember, your Honor. I
24 really don;t.

25 THE COURT: You really don't?

1 gab-5

Jerome Allen-cross

2 THE WITNESS: No, sir.

3 THE COURT: All right.

4 Q Mr. Allen, did you ever meet Miss Herzfeld outside
5 of the offices of Training With the Pros?

6 A I don't remember that. I may have.

7 Q You don't remember that?

8 A I may have.

9 Q Didn't you tell us when Mr. Gould was asking you
10 the questions that you met Mr. Moss or Miss Herzfeld you
11 would say three or four times on the outside?

12 A Outside my office?

13 MR. GOULD: Just a minute. May I understand
14 where he is supposed to have said that?

15 MR. SORKIN: Page 2404, Mr. Gould, Line 4, 5 and
16 6.

17 Q I will do it the other way.

18 Mr. Allen, do you recall Mr. Gould asking you this
19 question, bottom of Page 2403, Line 5:

20 "Q Now, sir, between the time that you first learned
21 about Training With the Pros and its prospective public
22 offering, how many times did you see Mr. Moss, would you say?

23 "A Before it went public?

24 "Q Yes, before it went public.

25 "A Mr. Moss or Miss Herzfeld, I would say three or

four times on the outside."

A I said or, Mr. Moss or Miss Herzfeld. You just lumped them together.

Q You don't know who you met?

A I think I met Mr. Moss before it went public. I am quite sure I did.

Q Did you meet Miss Herzfeld before it went public outside of your office?

A I don't remember that.

THE COURT: Wait a minute. When you used the phrase "on the outside," what did you mean?

THE WITNESS: Outside -- they were in their office or some place else. I thought he meant in my office, your Honor.

THE COURT: In other words, when you used the phrase you meant somewhere other than your office?

THE WITNESS: I wasn't semantically -- I am sorry.

THE COURT: All right.

Q You say, Mr. Allen -- I think you testified that Mr. D'Onofrio asked you to research Training With the Pros.

Do you recall testifying to that in response to Mr. Gould's question?

A Yes, sir.

Q What did you do?

1 gab-7

Jerome Allen-cross

2 A What a normal consultant does. I called McGraw-
3 Hill a number of times. I called companies that were
4 in educational training to ask them if they knew anything
5 about the training company.

6 Q Who did you call?

7 A What companies did I call?

8 Q Yes, sir, other than McGraw Hill.

9 A I called Prentice-Hall in Englewood, New Jersey,
10 because they are very big in educational textbooks. I
11 don't remember who else I called. I don't remember what
12 other companies I called.

13 Q What other research did you do?

14 A The normal research.

15 Q What is the normal research?

16 A Asking the company's president some questions by
17 telephone.

18 Q Mr. Moss?

19 A Yes, sir.

20 Q What else?

21 A There wasn't too much to do because as a --
22 as a venture capital, as a private company going public without
23 a prior track record, what can you really research? You
24 can't research past performance. There was no performance.
25 It was a new venture.

1 gab-8

Jerome Allen-cross

2 Q Did you look at the offering circular?

3 A I read the offering circular.

4 Q Did you get paid by Mr. D'Onofrio for this re-
5 search?

6 A No, sir.

7 Q Did you ask for any money?

8 A No, sir.

9 Q Wasn't that your business though as an analyst?
10 You got paid for being an analyst?11 A If I was paid to research every company that
12 people asked me to, I would be a multi-millionaire. I in-
13 vestigated dozens of companies in the course of writing
14 a market letter or giving advice.15 End 2B
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2 Q Did Mr. D'Onofrio ask you to write a market
3 letter for this stock?

4 A No, he didn't. And I never did.

5 Q When did you begin your research into this com-
6 pany, Mr. Allen?

7 A When I first heard that they would go public.

8 Q When was that, sir?

9 A I believe it was late '68, I am not sure.

10 Q Can you give us a little better dates?

11 A Mr. Sorkin, I can't.

12 Q You can't recall when you first heard about it,
13 is that so?

14 A No, sir.

15 Q How many times did you talk to Mr. Moss on the
16 phone?

17 A I can't --

18 MR. GOULD: I object to this. I think this
19 has been asked and answered at least three times. I can't
20 see we are going anywhere.

21 MR. SORKIN: I thought I asked Miss Herzfeld.

22 THE COURT: I thought you asked this witness.
23 Are we really going to come to any kind of conclusion here?

24 MR. SORKIN: I hope so if I can just ask this
25 question, I think I can complete this area.

qb-2

Jerome Allen-cross

1 Q How many times did you talk with Mr. Moss on
2 the phone when you did your research on the company?

3 MR. GOULD: I object to that as asked and
4 answered.
5

6 THE COURT: I believe you are probably right, but
7 with the hope of coming to an end on this I will allow it
8 once more.

9 A Did you say before or after it went public?

10 Q Before it went public.

11 A I would say I spoke to Mr. Moss three, four, five
12 occasions. I am not swearing to that, I don't know.

13 Q Mr. Allen, Page 2391, Line 7, Mr. Gould asked you
14 this question and see if you can recall it:

15 "Q Were you compensated by the bank for those ser-
16 vices, this is the advisory research capacity that you testi-
17 fied you did for the bank?

18 "A Not by the bank directly, but by clients of the
19 bank.

20 "Q IN what way were you compensated?

21 "A I can give you a theoretical example.

22 "Q Just tell me.

23 "A I would receive 5 per cent of the profits of
24 a stock that I suggested the bank buy for their clients."

25 Do you recall being asked those questions and

qb-3

Jerome Allen-cross

1 giving those answers?

2 A Yes, sir.

3 Q Would you explain to me what that means?

4 MR. GOULD: I object to that.

5 THE COURT: I will allow that.

6 MR. GOULD: If your Honor please, I don't think
7 it requires any explanation. What is he supposed to do,
8 give us a dissertation --

9 THE COURT: That is not my function here. I
10 might privately agree with you. If counsel wants to ask what
11 he meant by this he is entitled.

12 MR. GOULD: But where a question calls for an
13 answer that is void of any possible probative value, and
14 that is what I think this is --

15 THE COURT: You may be right, Mr. Gould, but,
16 again, that is not necessarily my view of the matter. Maybe
17 it does have some probative value. Let's go on.

18 A I can answer that.

19 Q Please do, Mr. Allen.

20 A If I believe, for example, that Eversharp was a good
21 buy at a certain price I would tell the bank that I
22 thought Eversharp, let's say trading at twenty could possibly
23 go to 30 or 35 based on my research. The bank would then
24 check into it on their own. They would come back to me
25

1 and say, "We bought, 5, 6, 7 or 8000 shares and if it goes
2 up you would receive 5" -- before I met Phil I received a
3 flat 10 per cent. Once Phil became my partner I
4 received 5 per cent. Normally the bank, Mr. Sorkin, did not buy
5 it as principal for themselves, but for clients of the bank,
6 some of whom I knew and some of whom I didn't know.
7

8 Q Are you telling us then that your compensation
9 was directly related to how high the price went? If
10 the price went that much higher you would get that much more
11 in compensation?

12 A If my research was sound and the stock did well --

13 Q I didn't ask whether your research was sound.
14 The higher the stock went the more money you got?

15 MR. GOULD: If your Honor please, I object to
16 this. The answer to which he is being directed was that he
17 would receive 5 per cent of the profits of the stock that he
18 suggested. That doesn't mean that it was related in any
19 way to how high it went. It was related to profits and that
20 is not what he said.

21 THE COURT: Again, Mr. Gould, I am sorry, but I am
22 not sure that this is necessarily true at all. Perhaps it is
23 and perhaps it is not. You can argue this to the jury.
24 Don't argue with me. I am not the one --

25 MR. GOULD: Your Honor, my objection is based

qb-5

Jerome Allen-cross

on an assumption of the facts that are contrary to those in evidence.

THE COURT: I don't follow you.

MR. GOULD: Let me explain. The question that was read to the witness was:

"Q Just tell me.

"A I would receive 5 per cent of the profits of a stock that I suggested to bank --"

THE COURT: And 5 per cent of one profit would be different than 5 per cent of another profit.

MR. GOULD: But it is still profit. It doesn't matter how high it went.

THE COURT: I didn't say that necessarily, Mr. Gould. I don't know why we are in this discussion. The point is that I think there is a fair question if properly put.

Put it again so we get back on the track, Mr. Sorkin.

Q Mr. Allen, am I correct then that your compensation was directly related to how high the stock went?

A Yes, I was an investment investigator and that was my compensation on big board stocks.

Q If the stock went to 40 you get more money than if the stock went to 30?

1 qb-6
2 A Or they would offset it against losses. If I
3 told them to buy Eversharp at 40 and it went to 30, there were
4 times they would offset that against the loss.

5 Q It was in your interest to see that the stock
6 went up?

7 A To see that a big board stock went up --

8 Q Any stock. How about over-the-counter stocks
9 like Franklin Mint, which you mentioned yesterday?

10 MR. GOULD: I object to this.

11 THE COURT: The point is, Mr. Allen, you would
12 agree that if the stock made a profit you got 5 per cent.

13 THE WITNESS: Yes, sir.

14 THE COURT: Now you are telling us that the
15 arrangement was a little more than you said yesterday. If
16 there was a loss those losses would be offset against your --

17 THE WITNESS: Normally on some stocks -- I worked
18 with the bank for seven, eight years. They had two different
19 managing directors so sometimes the deal would change,
20 but essentially it was 5 per cent of the profits, your Honor.

21 THE COURT: But were there sometimes arrangements
22 where if there were losses you would be docked in a sense
23 against your compensation overall?

24 THE WITNESS: Yes, in the beginning they did, sir.

25 Q Mr. Allen, I think you testified yesterday --

1 qb-7

Jerome Allen-cross

2 Page 2394, gentlemen --

3 THE COURT: Did you ever stay at the Hotel Baur
4 au Lac at any time in '68 or '69, Mr. Allen?

5 THE WITNESS: Yes, I did.

6 THE COURT: ON a number of occasions, once or
7 what?

8 THE WITNESS: In '69 I had traveled there
9 more than once.

10 Q I think you testified yesterday, Mr. Allen, that
11 you thought that Training With the Pros could be another
12 winner like Franklin Mint.

13 A Would be or could be?

14 Q Would be another winner like Franklin Mint. Do
15 you recall that?

16 A Yes.

17 Q What was it about Training With the Pros, which
18 had no track record as you testified to, that led you to
19 believe that it would be a winner like Franklin Mint?

20 A The research --

21 Q What was it about Training With the Pros that led
22 you to believe it would be another winner?

23 A There were thirty or 40 million kids that had
24 to be taught avocation or vocations, that the system looked
25 sound, and the fact that McGraw-Hill had given a small con-

1 gb-8

Jerome Allen cross

2 tract, perhaps less than 200,000 to a company in its embryonic
3 stage, the fact they would identify with such a young
4 company. If McGraw had that judgment, why not I?

5 Q You thought for that reason it would be another
6 winner like Franklin Mint?

7 A Based upon my conversations with McGraw Hill they
8 said it was a promising company. They wouldn't lend their
9 name to something that was a sham. They permitted their name
10 to be put in the prospectus.

11 Q You mean the offering circular?

12 A Yes, sir, I believe McGraw Hill had their name
13 in the prospectus.

14 Q Mr. Allen, let me ask you this: I think you
15 testified yesterday -- and I am looking at Page 2405, gentle-
16 men, Line 7.

17 "Q What did you do with the certificates that you
18 received in Training With the Pros" -- and we are talking
19 about the certificates of yours, Janice Hickok, your wife --

20 "A I know what you are referring to.

21 "Q Arden, Striziver, LaMorte.

22 "A First, I had the people sign the back of them.
23 I had them sign the back of the stock certificates.

24 "Q You mean endorse them?

25 "A Yes.

qb-9

Jerome Allen-cross

1 qb-9 Jerome Allen-cross
2 "Q Endorsed in blank or endorsed in some
3 specified person, do you remember?

4 "A I asked the people who bought the stock to
5 sign the back of them because since I was buying it from
6 them they just couldn't be an unendorsed certificate."

7 Do you recall being asked those questions and
8 giving those answers?

9 A Yes, sir.

10 Q Whendid you get the certificates?

11 A After I paid them for the stock.

12 Q When did you pay them for the stock?

13 A After the stock went public.

End 3A

2 Q When was that, Mr. Allen?

3 A In February. Mid-February, I believe.

4 Q You paid them and they gave you the certificates?

5 A Yes, sir.

6 Q What did you do with the certificates after you
7 got them?

8 A I believe I testified, Mr. Sorkin, that I either
9 mailed them or gave them to somebody to bring overseas or
10 gave them to an agent of the bank.

11 Q When?

12 A After I physically received them.

13 Q When did you give them their receipts?

14 A I don't remember the exact date. You mean the
15 receipt for what, sir? They gave me the stock and I paid
16 them for it.

17 Q Did you give them a receipt?

18 A Did I give them a receipt?

19 Q Yes.

20 A My check in effect was the receipt for payment.

21 Q So there were no receipts at the time you took the
22 stock from them, is that correct?

23 A I didn't say that. I said I paid them for the
24 stock. I don't know if I gave them a receipt. They gave me
25 a bill of sale.

1 jpe

Jerome Allen - cross

2777

2 Q They gave you a bill of sale?

3 A I typed up a bill of sale.

4 Q Let me see if I understand this. You typed up a
5 bill of sale that they gave you?

6 A They gave it back to me, yes.

7 Q I am confused.

8 MR. GOULD: I will say counsel is confused, so
9 am I and the witness.

10 MR. SORKIN: I will rephrase the question.

11 Q Mr. Allen, you say you got the stock certificates,
12 you purchased it from these people, is that so?

13 A Yes, sir.

14 Q And you gave them a check when you received the
15 certificates?

16 A Yes, sir.

17 Q At the time you paid them you say you typed up a
18 receipt which they signed and gave back to you, is that so?

19 A I believe I did. I am not sure. I am sloppy
20 on details. I am an analysis not a back office man.

21 Q What do you mean you are sloppy on details?

22 A I am not versed in back office procedure, enforc-
23 ing certificates.

24 Q I am not asking about back office. I am asking
25 you about the simple transaction of you getting stock cer-

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jge Jerome Allen - cross 2778

tificates from them and they giving you a check.

A They didn't give me a check. I gave them the check.

Q You giving them a check.

MR. FELDSHUB: Who is "they"?

MR. SORKIN: Arden, Striziver, Hickok and Mr. LaMorte.

Q Now, Mr. Allen, you say you typed up receipts, is that correct?

A Yes, sir.

Q Did they execute those receipts at the time you paid them for the stock and that they gave the stock to you?

A I don't know whether they signed the receipt the day they gave me the stock of two weeks later, I don't remember.

Q You don't remember?

A These were personal friends of mine and the date of signing the receipt would be of no consequence.

Q Wouldn't it be of some consequence if bank Hofmann needed the receipts to transfer the stock?

MR. FELDMAN: Objection. It is not proper in form.

A Mr. Sorkin, I testified yesterday that when the bank called me Mr. Jack Baer said that he wanted their

1 jge Jerome Allen - cross 2779
2 signatures endorsed or notarized, I already said that. Then
3 I had typed out a second bill of sale which they had
4 notarized by I believe Mr. Frank. I went over that yester-
5 day.

6 Q I know you went over it yesterday. We want the
7 details of that.

8 MR. GOULD: Cant we communicate in some way that
9 it is not necessary for Mr. Sorkin to make these comments
10 and to repeat the answers?

11 THE COURT: Comments are one of our hallmarks
12 of style here. I agree with you. But I have said so much
13 about that that I don't dare repeat it because it is
14 getting boring. However, I will repeat it once again and
15 for everybody. You will stick to questions and answers and
16 comments, as the jury and I long since learned, we are not
17 paying any attention to.

18 Q Mr. Allen, when was the stock mailed or delivered
19 over to Bank Hofmann? Do you remember the dates?

20 A Obviously after it went public, Mr. Sorkin.

21 Q Do you remember the date?

22 A No, sir, I couldn't.

23 Q Do you remember when you sold the stock to Bank
24 Hofmann?

25 A The date?

jge

Jerome Allen - cross

2780

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Q Yes, sir.

3

A That the sale was agreed on prior to the actual sale itself -- they agreed to buy --

5

Q Just wait ons second.

6

A It's an ambiguous question, the day you sold it.

7

Q If it is ambiguous I will ask it again.

8

Mr. Allen, when did you physically sell, physically give the stock to Bank Hofmann, the date?

10

A I didn't physically give it to Bank Hofmann.

11

Q When did the bank receive it by mail?

12

A I don't remember the date.

13

Q Do you remember if it was mailed or sent over by Mr. Stoller?

15

A I believe I testified I didn't remember whether I gave it to Phil, mailed it to the bank or gave it to an agent of the bank, meaning a correspondent bank.

18

Q Mr. Allen, let me show you -- and I think you were shown Government's Exhibits 21 yesterday. That is Mr. Arden's receipt. Do you recall being shown that?

21

A Yes, sir.

22

Q That says there -- well, why don't you read it.

23

A I hereby confirm that I have sold to Jerome Allen this date, February 20, 1969, 1,000 shares of common stock of Training With the Pros, Inc. at, then there is no

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jqe Jerome Allen - cross 2781
price, per share for total of blank. Payment to be made to
me on physical delivery of said stock, signed by Joseph
Arden, endorsed by Mr. Frank.

Q Can you tell the Judge and jury, Mr. Allen, how
you were able to purchase this stock from Mr. Arden on
February 20 if the stock certificate was not issued until
February 21?

MR. GOULD: I object to that.

A That is a ridiculous question.

MR. GOULD: Just a minute. I object as to its
form.

THE COURT: Yes, I will sustain the objection as
to form.

Q Mr. Allen, looking at the stock certificate,
Government's Exhibit 2H.

A Yes.

Q Doesn't it say there that it was dated February
21, 1969?

A Yes, that is normal procedure on the street, to
make sale with a five-day settlement. I can agree to sell
you a stock today and deliver it 30 days from now.

Q Please. The question is, Mr. Allen: When did you
receive the certificate from Mr. Arden and give him a check?

A I don't remember. I told you that over and over.

2 Q But you say you purchased it from him on
3 February 20, isn't that so?

4 A Actually I purchased it from him by prearrange-
5 ment prior. If he got the stock I would pay you a premium.
6 When you say the date of purchase that is a semantic phrase.
7 Was it the day he agreed to sell it, the day he handed it to
8 me --

9 Q Which was it?

10 A It was a gentlemen's agreement. He agreed he
11 would sell me the stock above the purchase price.

12 Q When did he agree to sell you the stock above
13 purchase price?

14 A If he got the stock --

15 Q When?

16 A He told me if he got the stock he would sell it
17 to me --

18 Q When did he say that to you?

19 A When I told him to indicate for it.

20 Q When was that?

21 A I don't remember the date.

22 Q Was it prior to the offering?

23 A Prior, yes, sir.

24 Q Can you tell the Judge and jury then why the
25 receipt is dated February 20 if you had an understanding with
him --

1 jga

Jerrold Allen - cross

2783

2 MR. GOULD: Objection, your Honor.

3 THE COURT: Once again what is happening here is
4 we are breaking down into a conversation and not a question
5 and answer session. We will disregard all these flurries
6 and we will go back again. Put your question.

7 Q Mr. Allen, did you have a gentleman's agreement
8 with Mr. Arden to buy the stock back from him if he got the
9 stock?

10 A Yes.

11 Q When did you come to that understanding with him?

12 A When I told him to indicate to see if he could
13 get it.

14 Q Can I have a date?

15 A Before it went public.

16 Q The date please.

17 A I don't remember the date. It could have been
18 a week before, two weeks before.

19 Q Was that a gentleman's agreement?

20 A Yes, sir.

21 Q There is no writing to indicate it?

22 A No, sir.

23 I had known Joe for seven, eight years. He
24 never broke his word.
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Jerome Allen - cross

2784

Q And when did you give him the check, Mr. Allen?

A I don't remember the date, sir.

Q What is the significance then of February 20, 1969?

A Just to have a letter in my files for tax purposes.

Q For your files?

A Yes, sir.

Q Wasn't this letter sent over to Bank Hofmann?

A I made a copy of it for my files and I told you I don't know if the letter went by mail or in person.

Q Do you have that file with you now?

A You didn't ask me for it.

Q Do you have it with you now?

A How would I have a file with me you never asked me to bring?

Q Just yes or no.

A No.

Q So that the date of February 20 is just an arbitrary date, is that correct?

MR. GOULD: I object to that, your Honor. That is not the witness' testimony.

THE COURT: I will sustain that objection as to form.

2 Q Mr. Allen, let me ask you this: When did you come
3 to this agreement with the bank for them to buy your 5,000
4 shares?

5 A When they found out --

6 Q Give me a date, please.

7 A Mr. Sorkin, you have xeroxed in --

8 Q If you can't, Mr. Allen --

9 A I can't remember the exact date.

10 Q Give us approximately then.

11 A When I agreed to sell my stock, if I received it,
12 to the bank? Is that your question?

13 Q Yes. When did you first talk to a representa-
14 tive of Bank Hofman about selling your 5,000 shares to the
15 bank?

16 A When they told me they were aware of the stock
17 going public.

18 Q When did they first tell you that they were
19 aware of the stock going public?

20 A I would say late in '68, early '69, but I may be
21 wrong by a month or so.

22 It could have been November, it could have been
23 December or January. I don't remember, Mr. Sorkin.

24 Q Mr. Allen, on page number 2406 Mr. Gould asked
25 you this question:

1 gawe Jerome Allen - cross 2786

2 "Q I show you these papers, sir, which have been
3 marked in this case as Government's Exhibits 21, 22, 23,
4 24 and 25. Are those the letters that you gave either to
5 D'Onofrio or to Stoller to go with the stock certificates?
6 Look them over.

7 "A I remember the letters, Mr. Gould. I may have
8 sent the bill of sale with these letters to Switzerland
9 independent of the stock. I'm not sure. I don't know whether
10 they went with the stock or independent but these are the
11 letters I typed."

12 Do you recall being asked that question and
13 giving that answer?

14 A Yes, sir.

15 Q Mr. Allen, the next question you were asked,
16 let's see if you recall it

17 "Q You typed these yourself?

18 "A Yes, sir.

19 "Q Did you obtain the signatures yourself?

20 "What does that say?

21 "A Joseph Arden."

22 It is your testimony then that you typed up 21,
23 22, 23, 24 and 25, is that correct?

24 A Yes, sir.

25 Q On the same typewriter?

1 gawe

Jerome Allen - cross

2787

2 A I had two typewriters in my home.

3 Q You had two.

4 A One -- I believe they were both Smith Corona's.
5 One was a portable, one was an electric portable.

6 Q Which of these, Mr. Allen, was the portable and
7 which of these was the Smith Corona?

8 A How --

9 MR. GOULD: Your Honor, I don't believe this is
10 appropriate cross examination.

11 THE COURT: I would certainly sustain the objec-
12 tion to that question.

13 Q Do you recall, Mr. Allen, on which typewriter --

14 MR. GOULD: I think that is the same question we
15 are talking about, your Honor.

16 A I don't recall.

17 MR. SORKIN: Just in this area, just a little --

18 THE COURT: No, that is not the problem, Mr.
19 Sorkin.

20 MR. SORKIN: I will move on, your Honor.

21 THE COURT: I don't know that this gentleman is
22 an expert on type faces.

23 MR. SORKIN: If he knows, your Honor. That is
24 all I'm asking him.

25 THE COURT: The way you put it to him, I couldn't

gawa

Jerome - cross

2788

be sure.

Q Let me ask you this, Mr. Allen. Exhibit 21, was that typed, if you can recall, on your portable or on your other typewriter?

A I don't remember, sir.

Q What about number 25? You can look at it, sir.

A I don't remember which of the two I used.

Q All right.

Now, Mr. Allen, do you recall Mr. Gould asking you this question:

"Q Take a look, Mr. Allen, at Government's Exhibit 26, 27, 28, 29, 30 and 31."

MR. GOULD: Where are we?

MR. SORKIN: Page 2408, line number 3.

MR. GOULD: Thank you.

Q "--Did you prepare these documents, too?

A I believe I did."

Mr. Allen, let's look at 26, 27, 28, 29, and 30 for the moment. Are those the documents you say you prepared?

A Copies of the documents, not the originals, of course.

Q Copies or originals. I don't care.

MR. GOULD: Can't we agree, if your Honor please, that in the next question they were identified as Xerox

gawe

Jerome Allen - cross

2789

copies?

MR. SORKIN: Fine, Xerox copies.

Q Go ahead, Mr. Allen.

A They all look to be the same type face, yes, sir.
I'm not an expert. I believe I typed these.

Q You also said you typed up Exhibit number 31.

Do you recall giving that answer to Mr. Gould?
Just do you recall answering the question.

A I don't recall the specific -- I don't recall
this one, Mr. Sorkin. I may have.

Q Let me see. Mr. Gould yesterday asked you:

"Q Take a look, Mr. Allen, at Government's Exhibit
26, 27, 28, 29, 30 and 31. Did you prepare those documents,
too?

"A I believe I did.

"Q When I say 'those', I mean the originals of them.

"A Yes.

"Q These are Xeroxes. What did you do with the
originals of Exhibits 26 through 31 inclusive?

What did you do with them after you typed them?

"A I gave them to Phil to have his people sign them."
Do you recall being asked those questions and giving those
answers?

A Yes.

1 gawe

Jerome Allen - cross

2790

2 Q Now, Mr. Allen, let's look at Exhibit number 31
3 and let me ask you.

4 Does that typewriter have the German umlot over
5 the U?

6 MR. GOULD: I object to this, your Honor. I
7 don't know what we are doing now.

8 May I just look at it.

9 A Mr. Sorkin, I could answer you.

10 THE COURT: Before you do Mr. Gould wants to
11 look at it.

12 MR. GOULD: Where is the umlot?

13 MR. SORKIN: Look under the word Zurich, the U
14 after the Z, Mr. Gould.

15 MR. GOULD: I withdraw the objection, your Honor.
16 If he knows he can answer.

17 A Mr. Sorkin --

18 Q The question was, Mr. Allen: Does your type-
19 writer have the German umlot over the letter U.

20 A Let me finish?

21 Q Yes or no.

22 A I don't know.

23 THE COURT: You haven't started yet. Keep that
24 in mind, would you please.

25 The question is -- Do you want it read back?

1 gawe

Jerome Allen - cross

2791

2 A I know the quastion, your Honor.

3 THE COURT: All right.

4 A Permit me to answer it.

5 Q Yes or no.

6 A In my office I also had a German typewriter
7 called an Adler.

8 Q Mr. Allen, did your typewriter have --

9 A One of my typewriters --

10 MR. GOULD: Your Honor --

11 THE COURT: Gentlemen, please. I agree with
12 you, he will be permitted to answer, but in so saying may I
13 suggest to both of you that you let him answer. Go ahead.

14 A Mr. Sorkin, when I say my typewriter, I mean
15 literally mine. I had two typewriters in my apartment. I
16 had an Adler. It was purchased at Bevel Typewriter -- you
17 could check the records -- in 1967.

18 That was a German made typewriter purchased in my
19 name. I could produce the receipt and that does have an
20 unlot on it.

21 Q Did you type this one particular receipt on your
22 German typewriter?

23 A I believe -- German made.

24 Q German made.

25 A Adler is German made.

gawe

Jerome Allen - cross

2792

Q And Exhibits number 21 through 30 were typed on your American typewriters and Exhibit 31 was typed specially on your German typewriter?

A I believe so.

Q That is what you are saying. Thank you, Mr. Allen.

MR. GOULD: Wait a minute. I may have missed the dramatic impact of this. I want to be sure I understand what it is we have established. Bear with me. Do I understand -- I heard the word "concession" somewhere.

MR. SORKIN: Concession?

MR. GOULD: That is what I thought I heard. I want to be straightened out. We have it then that the witness says that 25, 26, 27, 28, 29 and 30 were typed on one typewriter?

MR. SORKIN: 21, 22, 23.

MR. GOULD: One of them was typed on a German typewriter?

MR. SORKIN: Yes.

MR. GOULD: I'm all squared.

THE COURT: Let's see if we can get this resolved and move on. As I understand you, Mr. Allen, at least one of these documents in this series upon looking at them up you typed on your Adler machine, which again as I understood you

1 gawe Jerome Allen - cross 2793

2 was at your office at East 60th Street?

3 A Yes, your Honor.

4 THE COURT: And some of the others were pre-
5 sumed to be typed on your --

6 A In my apartment at home.

7 THE COURT: You did that at home?

8 A Yes, sir.

9 THE COURT: All right.

10 Anything else in this line, Mr. Sorkin?

11 MR. SORKIN: Yes.

12 Q Mr. Allen, isn't it a fact that this number 31
13 was typed up in Zurich because Mr. Stoller didn't have his
14 receipt when he went over --

15 A I don't know of any such fact.

16 Q You just don't know?

17 A No.

18 Q Mr. Allen, let me show you now -- let's go back
19 for just one moment.

20 Mr. Allen, you noticed on those receipts I'm
21 sure that the price per share and the total price is blocked
22 out.

23 A Yes, sir.

24 MR. FELDSHUH: Blocked out?

25 It is just not there?

1 gawe Jerome Allen - cross 2794

2 MR. SORKIN: Not there. We will say it is not
3 there.

4 Q When you typed it out, was it there, Mr. Allen?

5 A I don't remember.

6 Q You don't remember whether you typed out the
7 purchase price --

8 A I knew the purchase price. It was a gentleman's
9 agreement. I paid him. I don't remember if I typed it
10 in or not. As you said --

11 Q Mr. Allen, just one moment. When you typed out
12 Exhibits 21 through 31 did you type out the price per share
13 and the total purchase price? Yes or no?

14 A I don't remember.

15 Q Have you ever typed out receipts before, sales
16 agreements?

17 MR. GOULD: Wait a minute? Are we going to get
18 sales agreements or receipts?

19 Q Mr. Allen, have you ever typed out receipts
20 before?

21 A Yes, I have.

22 Q How about sales agreements?

23 A I may have.

24 Q Contracts?

25 A My lawyer would type up a contract normally.

1 gawe. Jerry Allan - cross 2795-96
2 Q Have you ever seen any document where the price
3 has been left out and the total purchase price has been
4 left out?
5 MR. GOULD: I object to this, your Honor.
6 THE COURT: I certainly would sustain the objec-
7 tion as to form. However, the subject matter I think is
8 worthy of a fair question.
9 MR. GOULD: He can't answer it that way.
10 THE COURT: I agree with you. That's why I say
11 I'm sustaining the objection as to form.
12 MR. GOULD: Thank you, your honor.
13 THE COURT: Let's put another question, please,
14 Mr. Sorkin.
15 MR. SORKIN: Yes, your Honor.
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1 gab-1 Jerome Allen-cross 2797
2 Q Mr. Allen, let me show you now what has previously
3 been marked -- by the way, before I do, did Mr. Stoller
4 take over his certificates as well as yours when he went
5 over?

6 A I think --

7 MR. GOULD: It has been asked and answered at
8 least three times, your Honor.

9 THE COURT: Yes. Why don't we stick to what I
10 thought we were working on here.

11 Q Mr. Allen, when did you type out those receipts
12 I just showed you?

13 A I told you I believe over and over I don't
14 remember the exact date.

15 Q I didn't hear you.

16 A I think I told you over and over I was involved
17 in many things. I don't remember the exact date.

18 Q Can you give us a month?

19 MR. GOULD: Your Honor, I must object. We have
20 been through this now at least --

21 THE COURT: Sustained.

22 Q Mr. Allen, when you went -- let me show you
23 now, Mr. Allen, Government Exhibit 25, On this receipt
24 it says the day, February 25, 1969, I have sold to
25 Bank Hofmann 5000 common shares of Training With the Pros,

gab-2

Jerome Allen-cross

1 common stock, at at left out a share for a total of left out
2 your signature, right?

3 A That's right, but you have the bill of sale,
4 Mr. Sorkin.
5

6 Q Let me ask the questions first.

7 A I gave it to you. You have it.

8 Q I am not arguing with you. You gave me the bill
9 of sale.

10 A You have a copy of a statement from the Bank
11 Hofmann. I gave it to you.

12 Q We are going to get to that.

13 A Okay.

14 MR. GOULD: Your Honor, can we just have an answer
15 and question?

16 A I am sorry, go ahead, Mr. Sorkin.

17 Q That says on February 25 you sold your stock to
18 the bank, correct?

19 A Yes.

20 Q Does that refresh your recollection as to
21 when you spoke to the bank for the very first time about
22 selling your 5000 shares at the negotiated price of 10?

23 A No, sir. I told you over and over --

24 Q Yes or no, Mr. Allen?

25 A I spoke to the bank about selling my stock before

1 it went public, once we found out the price would be 7.

2 Q What is the significance then of February 25?

3 A The bank must have insisted that I have a docu-
4 ment -- maybe I did this for my own records. I don't
5 remember.
6

7 Q You don't remember why that was dated February
8 25, is that what you are saying?

9 A Yes. I don't remember why it wasn't the 25th.
10 don't remember.

11 Q Mr. Allen, were the certificates brought over by
12 Mr. Stoller --

13 MR. SORKIN: Let me ask the question, Mr.
14 Gould.

15 MR. GOULD: I am just standing up. That's all.

16 Q Mr. Allen, the certificates that were brought
17 over by Mr. Stoller, were they given to the bank prior to
18 February 25 --

19 A I am sorry. You are making a statement. I
20 didn't say. I didn't say he brought them over. I say he may
21 have brought them over, I may have mailed them. Or I may
22 have given them to a correspondent. You say he brought
23 them over.

24 Q All right. Let's say mailed.

25 When were they mailed?

1 gab-4 Jerome Allen-cross 2800
2 A I don't remember the exact date.

3 Q Does the date of February 25 help you refresh
4 your recollection?

5 MR. GOULD: If the Court please, again I must
6 suggest we have been over this and over this.

7 THE COURT: I agree, Mr. Sorkin. This is quite
8 much a repeat here.

9 Q Let me show you, Mr. Allen, Government Exhibit 2H,
10 Mr. Arden's.

11 Am I correct that the date of the guarantor, the
12 signature guarantor, is February 25, 1969?

13 A Yes, sir.

14 Q According to this receipt, Mr. Allen, the stock
15 on February 25 was sold to Bank Hofmann?

16 A Yes, go ahead, sir. I don't know what your
17 question is.

18 Q Does that help you refresh your recollection
19 as to when you either mailed the stock over or gave it to
20 Mr. Stoller to mail over?

21 A Mr. Sorkin --

22 MR. GOULD: I object to the question, your
23 Honor, as having been exhaustively asked and answered and
24 couldn't possibly refresh his recollection.

25 MR. SORKIN: I have shown him another document.

1 gab-5

Jerome Allen-cross

2 MR. GOULD: You have shown him the same document.

3 MR. SORKIN: I have not shown him the back
4 of the certificate, Mr. Gould.

5 MR. GOULD: I withdraw the objection.

6 A Mr. Sorkin, will you permit me to answer it
7 please, without --

8 Q Let me ask the question.

9 MR. GOULD: Your Honor --

10 Q Does that help you refresh your recollection?

11 A In a way it does. You don't let me answer.

12 Q Tell me --

13 A You are aware of the fact on Wall Street a sale
14 can be consummated and the certificate endorsed --

15 Q How does that refresh your recollection?

16 A I don't remember the exact day --

17 Q So it doesn't refresh your recollection?

18 A No, sir.

19 MR. GOULD: Maybe, your Honor, these two boys
20 ought to go in the back room. I am trying to follow questions
21 and answers and I cannot do it. With this rapid fire inter-
22 ruption of the witness. I can't make a note, I can't hear
23 part of it. I must protest against Mr. Sorkin's tactics
24 here.

25 THE COURT: As I understand it in all this, when

gab-6

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three people are talking at once, I may have gotten it wrong.

THE WITNESS: It is my fault.

THE COURT: No, I am not accusing you of anything. I just want a clarification here if we can. Having looked at these documents that Mr. Sorkin just showed you, you say they do not refresh your recollection?

A As to a precise date, your Honor?

THE COURT: All right. Did you get that, Mr. Gould and Mr. Sorkin?

MR. GOULD: Yes, sir. Thank you very much.

MR. SORKIN: Yes.

THE COURT: Let's go ahead.

Q When did you first learn, Mr. Allen, that the SEC said no one person would be permitted to buy more than a thousand shares? I think you testified to that yesterday.

MR. GOULD: I object to that, your Honor. It has been abundantly testified to that the SEC did not say that.

MR. SORKIN: Page 2399.

THE COURT: Apparently he is withdrawing the question.

Q Question on Page 2399, Line 9:

"Q When you advised Mr. Herbert that the 42,000 shares were coming out at 7, what if anything did he say?

1 gab-7
2 "A He said that if there was such a thing issued,
3 there would be no point in the bank trying to get a block
4 in their name because I believe I told them on the phone
5 that Mr. D'Onofrio or Mr. Moss had been told at what is known
6 as a due diligence meeting by the SEC that no one person should
7 be permitted to buy more than 1000 shares."

8 MR. GOULD: There is all the difference in the
9 world, your Honor, between that and what counsel said.

10 THE COURT: I said to you, Mr. Gould, he was
11 withdrawing the question and he has put the proper question.
12 Why do we debate something that has happened right? Let's
13 go ahead.

14 Q When did you first advise Mr. Herbert that the
15 42,000 shares were coming out at 7?

16 A When I found out from either Mr. D'Onofrio or
17 Mr. Moss that it would be 40 or 42,000 shares.

18 Q When was that? Can you give me a date, Mr.
19 Allen?

20 A I believe it was December, January. I am not sure
21 Mr. Sorkin.

22 Q Did Mr. Moss or Mr. D'Onofrio tell you that the
23 SEC said that no one person should be permitted to buy more
24 than 1000 shares?

25 A I don't remember whether they both told me or

1 gab-8

Jerome Allen-cross

2 whether D'Onofrio or Moss told me. I don't remember that.

3 Q Now we get to the question. When was that?

4 A Before the stock went public.

5 Q Can you give me a date?

6 A Mr. Sorkin, you try to pin down dates. I can't
7 give them to you. I was doing many things at the time.

8 Q All right. Mr. Allen, after you learned of this

9 A Of what?

10 Q That the SEC said no one person could buy a
11 thousand shares --

12 A The SEC didn't tell me, someone told me secondhand

13 Q After you learned what the SEC supposedly said
14 to Mr. Moss or Mr. D'Onofrio -- did you then go out and
15 speak to Joseph Arden, Sarah Striziver, Willard LaMorte and
16 your wife?

17 A Yes.

18 Q And you made this prearranged deal?

19 A What do you mean by "prearranged deal"?

20 Q You had an agreement with them if they indicated
21 the stock and received a thousand shares you would buy up
22 to 1000 shares?

23 A You are asking me or telling me? Do you want
24 my answer?

25 Q Yes.

gab-10

Jerome Allen-cross

with these people.

A You mean ask him if I could have a nominee indicated for me?

Q Yes, sir.

A Oh, I got an opinion years before. Usually I am in nominees dozens of times.

Q What is your understanding of what a nominee is?

A A nominee is someone who buys a stock on your behalf either through a power of attorney, as a favor or for other reasons. If a company is making a tender for another company, they very often use nominees --

Q So --

A You know, when you don't like what I am saying you cut me off. Why?

Q I like what you are saying because I have another question waiting for you.

THE COURT: Yes, please. Let's not do that.

Q Go ahead.

THE COURT: Finish your answer.

A For example, there are members of the New York Stock Exchange, when they buy a stock on the Pacific Coast Exchange, they don't buy in the name of Newberg, Loeb, they will buy it in the account of Pacific Corporation.

The use of nominees is an old and proven and

gab-11

Jerome Allen-cross

legal method on Wall Street.

Q So are we to understand then that these people were buying on your behalf?

A Yes, sir. They were trying to buy the stock on my behalf.

THE COURT: We will take the afternoone recess at this point, ladies and gentlemen.

Ten minutes.

(Recess.)

End 4B

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Jerome Allen-cross

(In open court; jury absent.)

THE COURT: Gentlemen, if we can sit down,
the jury will be coming in quickly.

MR. SORKIN: Before they come in --

THE COURT: They are coming in .

MR. GOULD: Do you want to talk about Monday,
your Honor?

THE COURT: Rest, relax. That will be done all
in due time.

(Jury preesent.)

THE COURT: Go ahead, Mr. Sorkin.

BY MR. SORKIN:

Q Mr. Allen, do you know a woman by the name of
Elinor Wein?

A Yes, sir, I do.

Q Did you have conversations with her about Training
with the Pros?

A Yes, I did.

Q When, sir? That is, for the first time.

A After the stock went public. That is a stupid
answer. I would say a few weeks and maybe a month after the
stock went public. I am not sure. I had many conversations
about many stocks.

Q A few weeks or a month? I missed your answer.

1 qb-2
2 A After the stock went public, obviously. Exactly
3 what date again, I don't remember.

4 Q How about a gentleman by the name of Walter
5 Paruch, did you talk to him?

6 A Under many occasions, yes.

7 Q Let's confine ourselves to Training With the Pros.

8 A I may have talked to him. I don't recall -- I
9 know I spoke to Elinor about Training and I may have spoken
10 to Walter about it.

11 Q Mr. Allen, what did you tell Elinor Wein when
12 you spoke to her?

13 THE COURT: I couldn't hear that.

14 Q What did you tell Elinor Wein when you spoke to
15 her about Training With the Pros?

16 THE COURT: I believe we covered this yesterday.

17 MR. SORKIN: Not on cross, your Honor, on direct.

18 THE COURT: All right, go ahead.

19 A I believe I told her that I know of a company
20 that could be another Franklin Mint if certain things
21 happened, including that McGraw Hill contract.

22 Q Did you tell her that it could be another IBM?

23 A I don't think I used that phrase. She is pretty
24 professional.

25 Q I am not asking you whether she is professional

qb-3

Jerome Allen-cross

1 or not, Mr. Allen, please.

2 Did you tell her that it could be another IBM?

3 A I don't remember saying that.

4 Q Mr. Allen, tell us please the entire conversation
5 you had with Elinor Wein.

6 A Mr. Sorkin, five years ago -- and I am not being
7 facetious -- I spoke to Elinor almost daily about commodities
8 and stocks. I may have mentioned hundreds of stocks. She
9 had personal problems. I don't remember exactly what I
10 said.
11

12 Q You don't remember what you told her?

13 A Exactly what I said, no.

14 Q Did you suggest or recommend that she buy it?

15 A I may have. In all fairness, I would say she
16 sort of picked my brain because I think I was more experienced.

17 Q Wait a minute. You said pick your brain yesterday
18 and I know you said that. I am trying to find out now
19 what you said to her.

20 A I don't remember exactly what I said.

21 Q Did she call you or did you call her?

22 A We had a two-way communication because at the
23 time I was helping her husband --

24 Q Let's stay with Training With the Pros.

25 A I don't remember if I picked up the phone and

1 qb-4

Jerome Allen-cross

2 called her or she called me because she was constantly getting
3 me quotations. Whether I dialed her or she dialed me,
4 I don't remember.

5 Q Did you tell her she should run out and buy it and
6 if she didn't have the money you would lend her the money?

7 A I don't think I said that because at the time
8 I owed her money.

9 Q Did you tell her you would lend her the money
10 for her to buy the stock?

11 A I don't remember saying that.

12 Q Did you tell Elinor Wein that she should buy as
13 much as she possibly could?

14 A I don't remember exactly what I said, Mr. Sorkin.

15 Q Mr. Allen, you were over in Switzerland in 1973, is
16 that correct?

17 A '73?

18 Q Yes, the fall of '73.

19 A Yes. You mean October, November, yes, I was.

20 Q Were you ever offered any money by Mr. Stoller
21 or Mr. Frank to stay over in Switzerland and not come back
22 to the United States to testify in the Training With the Pros
23 case?

24 MR. GOULD: I object. I ask counsel be
25 admonished with respect to this.

qb-5

Jerome Allen-cross

1 qb-5
2 THE COURT: I don't understand you, Mr. Sorkin.
3 You don't really mean that question, do you?

4 MR. SORKIN: I think you did allow certain
5 testimony on another theory even though --

6 THE COURT: I know, but aside from what Mr. Gould
7 is concerned with, there are a number of problems. Let's
8 go back. We will disregard that. Let's go again.

9 MR. GOULD: Can I respectfully ask that the jury
10 be instructed to disregard the question?

11 THE COURT: Mr. Gould, I am sure the jury under-
12 stands this. We have been through this day after day.

13 Q Were you ever offered any money by Mr. Frank or
14 Mr. Stoller not to testify for the Government?

15 MR. GOULD: Your Honor, I must say I am mystified
16 by the renewal of the question in a different form. I
17 thought your Honor had ruled and I thought your Honor had made
18 your position clear to counsel.

19 THE COURT: Would you gentlemen please come up
20 to the side bar and again, ladies and gentlemen, two things:
21 First, disregard the last question and, second, please apologize
22 for this delay. We will hopefully make it brief.

23 (At the side bar.)

24 THE COURT: Mr. Sorkin, at this stage I thought
25 we were out of this. If it were true and if you had some

qb-6

Jerome Allen-cross

information on credibility, in the broad sense then I assume you could, but in this trial at this stage and in this context what are you trying to do?

MR. SORKIN: I think this goes right to the motive to testify falsely.

THE COURT: I know. But first of all, that is what I meant when I said of course generally speaking if it were true or if you had some information, fine. But that is not the point. You are trying a stock fraud case along with two remaining counts concerning the defendant Stoller and Frank.

It is not my province to tell you what I think of the criminal law and how it has survived. But may I remind you that the Government ought to stick to its linen no matter what you may think and how right your guesses may be. That is not the point.

MR. SORKIN: I don't understand. If he is testifying for the defense I can't ask him whether he is being paid to testify for the defense against the Government. It goes to bias and motive.

MR. GOULD: If he wants to ask that question I will not object to it.

THE COURT: Just a moment, please. You see, one of your problems, Mr. Sorkin, as I tried to tell you a

qb-7

Jerome Allen-cross

1 number of times, and I say this with great respect and with
2 great sympathy, you have one thing on your mind but the
3 words come out differently. You didn't ask that question.
4 You asked quite a different question.
5

6 MR. SORKIN: Assuming we have his grand jury
7 testimony where he says he was offered money going solely
8 to impeaching his credibility, we won't be able to get into
9 that.

10 THE COURT: Again, that is not the question you
11 asked.

12 MR. SORKIN: I understand that.

13 THE COURT: Mr. Sorkin, my concern and informa-
14 tion for you and for this trial is well past, in my opinion.
15 You seem to have one set of circumstances in your mind but
16 that is not what you asked. You asked questions which, in
17 my judgment, are clearly objectionable and you just did now.
18 Mr. Gould was within his rights to object on behalf of
19 all defendants. I am sustaining that kind of thing.

20 If you don't stop and reflect about what you are
21 doing you do, as Mr. Gould has tried to suggest except I
22 cut him off, run a horrible risk of a mistrial.

23 MR. SORKIN: I intend to ask him again --

24 THE COURT: But I don't want to make anticipatory
25 rulings. I do not believe that I should put myself in the

1 qb-8

Jerome Allen-cross

2 role of a lawyer. But I am warning you once again you have
3 got to think before you open your mouth. That is one of
4 the problems.

5 Let's go ahead. If you want to ask whether he
6 was offered anything or if he was paid, that is traditional.

7 MR.GOULD: It is standard stuff.

8 THE COURT: All right.

9 (In open court.)

10 Q Mr. Allen, did Mr.Frank or Mr.Stoller ever offer
11 you any money -- I will rephrase the question.

12 Did they offer you money or pay you money in
13 connection with your testimony here today?

14 MR. FELDSHUH: Objection.

15 MR. GOULD: If your Honor please, I say I object.
16 I won't say any more. That is the same question.

17 THE COURT: Mr. Sorkin --

18 MR. SORKIN: I will move on to another subject.

19 THE COURT: You don't have to move on to another
20 subject. Again, as I said to you at the side bar, there
21 is a way to do this. I don't know how often I have to
22 tell you this. I am sorry, but it is so easy if you think
23 about it and do what I suggested. There are standard rules
24 of doing this. I said I would permit it in that standard
25

1 qb-9

Jerome Allen-cross

2 way. Again your words come out different.

3 Q Mr. Allen, when was the last time you saw Mr.
4 Stoller?

5 A When was the last time I saw Mr. Stoller?

6 Q Yes. I am moving on to another subject.

7 When was the last time you saw Mr. Stoller?

8 A I passed him last night on the way to get a
9 document from my lawyer, Mr. Robert Whittick.

10 Q Prior to last night when did you last see him?

11 A In the courtroom.

12 Q And prior to that time?

13 A I saw him, I know on August 22, that date
14 sticks in my mind.

15 Q Was anyone else present when you saw him?

16 A Yes, Mr. Don Derfner. I had him call my attorney
17 and say I would go up there and see him.

18 Q Prior to August 22, Mr. Allen?

19 A I saw him on a few occasions, yes.

20 Q Where?

21 A At a bar in New York and Phil came to my apartment.
22

23 End 5A
24
25

1 jqa Jerome Allen - cross 2817

2 Q Which bar was that?

3 A McCoy's Bar on 44th and Lexington.

4 Q When was that?

5 A I don't remember the exact date, Mr. Sorkin.

6 Q July, June?

7 A It was in the summer.

8 Q Was anyone else present?

9 A At what meeting?

10 Q At the bar.

11 A No, sir.

12 Q Mr. Allen, how many times did you speak to Mr.

13 Stoller between January 15 and about September 1st?

14 A I called Mr. Stoller. He called me on a number
15 of occasions.

16 Q How many times did he call you?

17 A I would say 30, 40 times but I can't swear to
18 the exact amount. Maybe more. He apologized for silly
19 things he once said.

20 Q Such as what?

21 A Such as what?

22 Q What things did he apologize for?

23 MR. GOULD: If your Honor please, I thought we
24 had disposed of some of these counts. I don't even know how
25 to phrase the objection to that.

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Jerome Allen - cross

2818

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THE COURT: I am going to sustain the objection
3 on a number of grounds which I don't think I need to
4 elucidate or explain.

5

6

Q Mr. Allen, did Mr. Stoller, during the summer of
1974 -- withdrawn.

7

8

Did you tell Mr. Stoller that you were cooperating
with the Government in the summer of 1974?

9

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A He knew that. He called me right after -- I
have to answer this way: I signed my agreement to cooperate
on March 5 or 6. Immediately thereafter Phil called me
and said "Jerry, I understand the pressure upon you. I
even once said if you have to cooperate go ahead." That call
was made the same day I cooperated with you.

15

16

Q Did he call you at any time after this and
threaten you?

17

18

MR. GOULD: If your Honor please, I am at a loss
for words. I don't know how to phrase the objection.

19

20

MR. SORKIN: I will rephrase it.

21

22

MR. GOULD: There is no way it can be rephrased.
THE COURT: There is no way it can be rephrased,
Mr. Sorkin.

23

24

MR. GOULD: And noway it can be undone, your
Honor.

25

Your Honor, I must request a side bar conference.

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Jerome Allen - cross 2819

2 My professional obligation requires this.

3 THE COURT: Yes, come up.

4 (At the side bar.)

5 MR. GOULD: Let me put my position on the record,
6 sir. I don't want to move for a mistrial. I really don't,
7 your Honor. I know that your Honor has done everything
8 possible to try to avoid this. But apparently this man's
9 mind is impenetrable. He doesn't understand what it is he
10 is doing and I reluctantly must say I suspect that this is
11 a deliberate effort to precipitate an effort for a mistrial.

12 THE COURT: Let's come to the other room with
13 the reporter.

14 (In the robing room.)

15 MR. GOULD: I am deeply affected by this. I don't
16 understand what he thinks he is doing. Apparently your
17 Honor's admonitions have no effect on him. We have spent a
18 fortune in time and money and effort and if a defendant's
19 lawyer ever performed the way Mr. Sorokin is performing in this
20 courtroom this afternoon, I hate to think what would happen
21 to him.

22 THE COURT: Let me say this, gentlemen. I have
23 endeavored, because I do feel this is a very unusual position
24 for a prosecutor to be in, no matter what his experience --
25 as a matter of fact, I didn't want to indicate this on the

1 jge

Jerome Allen - cross

2820

2 record because I didn't want to embarrass Mr. Sorkin in any
3 way because I understand his plight to a degree. But this
4 morning I asked his superior who happened to be seeing me
5 on other business, and it might as well come out in the
6 open -- I suggested maybe Mr. Sorkin needed some help in
7 this regard and, of course, it would be difficult to have
8 another assistant come in and suddenly appear at the table
9 and very smartly and correctly, in my view, Mr. Edwards
10 arranged to have some older lawyers in the criminal division
11 appear in the courtroom as you gentlemen must have seen
12 today.

13 There were a number. I had hoped, frankly, Mr.
14 Sorkin, that that would enable you to proceed a difficult
15 position. It is hard not to be emotional, I understand
16 that. One has to only spend about five minutes with this
17 witness to understand the force of what I am saying; to
18 think of just the bare moments of the outline of his plea
19 and his cooperation so called, but we really have come to
20 the point where I think the defense has a fair point. We
21 are not here to simply allow you and Mr. Allen control of
22 this trial. It is becoming almost as if this were a case
23 called Sorkin versus Allen or Allen versus Sorkin or perhaps
24 U.S.A. versus Sorkin, ex rel. Allen. I don't know.

25 But I cannot permit that, Mr. Sorkin.

2 MR. SORKIN: Can I make a suggestion?

3 THE COURT: No, I would rather you not make a
4 suggestion now. What I do suggest and indeed direct, is
5 that we stay off this. It is true in the broader sense it
6 is relevant, of course, to know certain things that you
7 have attempted to ask. But the trouble with that is that
8 it ignores the rules of the game. It ignores the fact that
9 Mr. Stoller is on trial for stock fraud and false statements.
10 He is not on trial for obstruction. I dismissed those
11 counts for failure of proof. Now, it may well be that
12 somehow somewhere Stoller did something wrong. It may be
13 that he did something to induce Mr. Allen to stop cooperating,
14 I have under this from May to December. You have heard me in
15 another proceeding suggest the Trojan Horse argument. It
16 occurred to me long ago before I even saw this trial begin,
17 because of certain things that Allen said and has done. But
18 that is not the point here. The point in this case is to try
19 these men fairly on the charges in which they stand on
20 trial.

21 If you say to me it goes to credibility, it does.
22 But it will torpedo everything else and I refuse to permit
23 that. That is Mr. Gould's point, I assume. He would put
24 it more frankly than I have undoubtedly but that is his
25 essential point in the objections and I believe he is right.

1 You have got to understand that. I know your
2 suspicions and if I were in your shoes I would probably
3 have them too, to put it kindly. That doesn't allow you to
4 ask questions that loosely.

5 MR. GOULD: I would --

6 MR. SORKIN: Please, Mr. Gould.

7 MR. GOULD: I am trying to help you. You have
8 resisted my efforts. Go right ahead and kill yourself
9 your own way. I am trying to make a helpful suggestion to
10 you.

11 MR. SORKIN: I was going to ask -- and I think it
12 was certainly proper -- Mr. Allen if Mr. Stoller told him
13 at any time --

14 THE COURT: If Mr. Stoller what?

15 MR. SORKIN: If Mr. Stoller told him that if you
16 take the stand and testify against me I am going to open
17 up your sex life and I am going to call you a homosexual
18 and I agree that goes to obstruction but I think it goes
19 to Mr. Allen's state of mind, testifying the way he is. In
20 the obstruction case, your Honor, there were charges that
21 Mr. Allen was offered money by Mr. Stoller not to return to
22 the United States. Conceded you dismissed that. I think
23 you also let that in on the direct case with Mr. Feeney as
24 going to consciousness of guilt. I honestly do not think
25

1 jge Jerome Allen - cross 2823

2 how I can possibly get into this area without spilling
3 over into the obstruction case.

4 THE COURT: May I put it to you frankly. What
5 do you think this man is going to say? That is it.

6 MR. GOULD: He doesn't care what this man says.
7 He wants to ask the questions in the presence of the jury
8 and that is why I charge him unequivocally and directly
9 with an attempt to introduce prejudicial material into the
10 case. He knows the answer to your Honor's question. The
11 man will say "nobody promised me anything, nobody paid me
12 anything, nobody threatened me."

13 But Mr. Sorkin will have had his five second
14 pleasure of asking the questions in front of the jury
15 knowing, as he does with a complete lack of professional
16 responsibility, that they are improper questions.

17 MR. SORKIN: We have grand jury testimony where
18 he said he was offered money and we can't impeach him with
19 that.

20 THE COURT: That is why I feel sorry for you,
21 Mr. Sorkin, because we are in a very odd posture.

22 Of course, you do. But we know now what he
23 will say. He will say these are all lies and he will add
24 "You told me to tell him."

25 We know that. Therefore, what I am trying to put

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Jerome Allen - cross

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across to you, and I am not going to say this again, knowing that as we do the only possible fall out from all of this will be to create ambiguities and confusions in the triers of the facts' minds in respect to the counts here on trial. Put negatively, it will resuscitate matters which have already been ruled upon by the Court going to obstruction of justice. It is impossible for a judge, it seems to me, to segregate all of this out. Now I would be willing to try if I thought you were going to get anywhere but I know by this time you are not. I know what his answers are going to be just as well as you do. I agree, therefore, with Mr. Gould and Mr. Feldshuh that this is improper cross. If you had additional evidence or something of that nature, it would be something else again. But you don't. I mean, we just cant go back and keep looping back to the same old stuff with the resultant possibilities of prejudice to the defendants on the remaining counts.

I am sorry but we have got ourselves into this and I have to stick to it as I see it. I just don't think I can make it any plainer. We are going to do this the right way, as I see it. I am the first to agree that maybe I am wrong, but I am here. I have to do it as I see it and that is it. Let's go on out and do something else.

MR. GOULD: Am I not within my rights in

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jge Jerome Allen - cross 2825
suggesting a direction to the jury that they are not to pay
any attention, give any heed, to the questions that were
put?

THE COURT: Did you hear what I said as we left?

MR. GOULD: I didn't, your Honor, I am sorry.

THE COURT: I said two things, "ladies and gentlemen,
please disregard the last questions and second of all,
please excuse us for the time out."

MR, GOULD: I am sorry, your Honor.

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Jerome Allen - cross

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(In open court.)

MR. SORKIN: May we have this marked as Government's Exhibit 121, please.

(Government's Exhibit 121 marked for identification.)

Q Mr. Allen, do you recall testifying before the grand jury on March 19, 1974?

A March when, sir?

Q 19, 1974.

A The date I don't remember, sir, no.

Q Do you recall testifying before the grand jury subsequent to your February 14 appearance?

MR. GOULD: If your Honor please, if Mr. Sorkin represents it was March 19 we will concede it.

MR. SORKIN: We will so represent.

MR. GOULD: For the purpose of this trial.

A If you say I testified before them, I must have. I don't remember the date.

Q Mr. Allen, did you know a man by the name of Ernest Ballmer?

A Yes.

Q When did you first meet Mr. Ballmer?

A 1966 or '67.

Q How did you meet him, Mr. Allen?

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2 A He is an officer of the Bank Hofmann in Zurich.
3 He may not be an officer. He is one of the brass so to
4 speak.

5 Q What you mean by "brass"?

6 A One of the important people at the bank. I don't
7 know if he's like a director of the bank.

8 Q Did you ever talk to Mr. Ballmer about Training
9 With the Pros?

10 A Did I ever talk to Mr. Ballmer about Training with
11 the Pros?

12 A Yes.

13 A No, that is what you wanted me to say.

14 Q You say you never did.

15 A Pardon?

16 Q You say you never did?

17 A On one occasion I did.

18 Q When was that, Mr. Allen?

19 A When he asked me where he wanted my check for
20 49,000 sent. After I sold it to the bank at 10 he said
21 "Do you want it put in your account here or do you want it
22 sent directly to the Royal Bank in Canada." I said, "Send me
23 the check."

24 Q In other words, to save time, your testimony on
25 March 19, 1974 before the grand jury was lies?

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Jerome Allen - cross

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MR. GOULD: No, no, your Honor. I must object.
He has to read him the question and the answer.

Q Let's go through the entire --

MR. GOULD: No, I don't mean that, your Honor.

THE COURT: I know you don't mean that. The
point he is making, Mr. Sorkin, is it is got to be limited
to obviously this business of Mr. Ballmer, not just every-
thing that was asked on this date in March.

MR. SORKIN: All right, your Honor.

Q Page 17, Mr. Allen, line 11.

Do you recall being asked this question and
giving this answer:

"Q Did there come a time when there was a con-
versation with Mr. Herbert about what if any involvement
Mr. Ballmer had in the stock manipulation of Training With
the Pros and indeed any other stock manipulation that you,
Mr. D'Onofrio, Mr. Stoller and Mr. Herbert were engaged in?

"A Well, Freddy, was very close to Mr. Herbert
socially and professionally -- I am sorry, Freddy Herbert
was close to Mr. Ballmer as an employee and socially. On
many occasions Freddy told me that any funds Freddy received
from Mr. Herbert by virtue of a stock placement or stock
deal he would have to kick upstairs, meaning to Mr. Ballmer.
I don't believe it went above Ballmer, but that I am not

1 gawe Jerome Allen - cross 2829
2 sure. He did say he had to pay Mr. Ballmer for permission to
3 do certain things in the bank."
4 Do you recall being asked that question and giving
5 that answer?
6 MR. GOULD: I object to that and move to strike
7 it out. That's got nothing to do with Training With the
8 Pros. That is not the question.
9 THE COURT: I am inclined to agree with that,
10 Mr. Sorokin. I thought we were getting into the business of
11 Training with the Pros.
12 Q Mr. Allen, page 18, line 11, do you recall being
13 asked this question and giving this answer.
14 "Q Did you ever have a conversation with Mr. Ballmer
15 about Training With the Pros stock manipulation?
16 "A Yes, I did.
17 "Q Could you tell us when for the first time you
18 spoke to him about Training With the Pros?
19 "A I can't give you an exact date but before the
20 stock went public.
21 "Q Well, to refresh your recollection, the effective
22 date was February 4, 1969.
23 "A Well, I would say about October of November '68,
24 I was in constant communication with the bank on many matters
25 and in the course of those communications I would discuss

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Jerome Allen - cross

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Training With Mr. Ballmer, the fact that Training was going to go public.

"Q Did you tell Mr. Ballmer that you and Mr. D'Onofrio, Mr. Stoller and Mr. Herbert were engaged in a parking of the stock, that was going to be a manipulation and the stock would run up?

"A Yes, sir. The general text was he would take out as much stock as possible and then sell the stock to clients on Wall Street and general using the bank as a conduit.

Q Do you recall being asked those questions and giving those answers?

A Yes, sir.

Q Were these lies?

A Yes, sir.

Q You were under oath?

A Yes, sir.

Q Mr. Allen, did you have any notes in front of you when you testified before the grand jury on February 14, 1974 and on March 19, 1974?

A I had a remembrance of what you went over --

MR. GOULD: If your Honor please, this is a review of the fact--that was really Mr. Sorkin testifying and the fellow, the witness just saying yes. I don't think

1 gawe Jerome Allen - cross 2831

2 it is appropriate to press him on the subject of notes.

3 A You told me not to bring --

4 THE COURT: Just a moment.

5 A I apologize, your Honor.

6 THE COURT: The question which I certainly
7 will allow which seems simple and unexceptional is whether
8 or not, if you recall, you had any notes with you.

9 A No, your Honor.

10 THE COURT: You didn't. All right.

11 Q On either of those dates?

12 A I never brought notes to the grand jury to
13 my remembrance.

14 Q Mr. Allen, did you ever hve a conversation with
15 Mr. Ballmer as to what Mr. Ballmer was going to get out
16 of Training With the Pros?

17 A Not that I can recall.

18 Q Do you recall being asked this question and
19 giving this answer, page 19, line 19.

20 "Q Did Mr. Ballmer ever say what I am going to get
21 out of it or did he refer back to Fred Herbert or ever
22 indicate he was getting any of the proceeds of the unlawful
23 stock manipulation?

24 "A He would make subtle remarks as to the fact that
25 Freddy would take care of it, but he didn't say it in a

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Jerome Allen - cross

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direct quotation."

Mr. Allen, were you asked that question and did you give that answer?

A Yes.

Q Was that a lie?

A The entire question?

Q No, the answer.

A The answer?

Q Yes, sir.

A Yes.

Q How many conversations did you have would you say with Mr. Ballmer in October, November of 1968 up through February 4, 1969?

A I had many conversations about many stocks with Mr. Ballmer.

Q How many would you say that you had with him?

MR. GOULD: If your Honor please, I object to this as improper cross examination. It might remotely be related to credibility, but I don't see Mr. Ballmer around.

I think we are going far afield on the issue of credibility.

THE COURT: Before I rule on that, is the thrust of your question how many conversations did he have with Ballmer about anything --

1 gawe Jarome Allen - cross 2833

2 MR. SORKIN: About Training with the Pros. I'm
3 sorry.

4 THE COURT: As long as we delineate Training
5 With the Pros, I will allow it.

6 MR. GOULD: No objection.

7 A I discussed on a number of occasions the fact
8 that if we got stock we would sell it to the bank, and
9 that's when we negotiated the \$10 price, but I can't
10 pinpoint a month.

11 Q Mr. Allen, when was the last time that you saw
12 Fred Herbert?

13 A In Zurich approximately December 1st or 2nd of
14 1973, Mr. Sorkin.

15 Q I'm sorry, December.

16 A The beginning of December 1973, Mr. Sorkin.

17 Q Can you give us a little better date?

18 A I can answer you better this way.

19 Q Sure.

20 A I was living at the Nova Park Hotel in Zurich and
21 I was a guest at Freddy's house on many occasions. I saw
22 him three or four times a week up until the point I was
23 arrested on Dember 4.

24 Q Did you have any conversations with Mr. Herbert
25 about your being in Switzerland, what you were there for?

2 A Yes, I did.

3 Q What did you tell him and what did he say to you?

4 MR. GOULD: I object to this.

5 THE COURT: Sustained.

6 Q Mr. Allen, I think you testified yesterday that
7 your anniversary was March 5, is that correct?

8 A Yes, sir.

9 Q Where were you on March 5, 1969?

10 A My wife and I have pondered that. I don't know
11 whether we flew to Florida the night of March 4 or the
12 morning of March 5, or on March 6. We had tried to make
13 our anniversary in Florida but she doesn't remember whether
14 we were there that day or the following day.

15 Q So you don't know where you were on March 5.

16 A I was either in New York or the Arden House in
17 Miami Beach.

18 MR. SORKIN: Your Honor, in light of your Honor's
19 ruling in chambers, I ask at this time if we can take our
20 break for the day.

21 It is going to necessitate some additional
22 material and I anticipated going over a number of areas in
23 in light of your Honor's ruling, I think we would have to
24 go into something else.

25 MR. GOULD: Absent a showing of real hardship to

1 gawe Jerome Allen - cross 2835
2 the prosecution, I would vigorously object. I would like
3 to get finished with this case. They have had seven years
4 to prepare this thing.

5 THE COURT: Let me see if I understand this. I
6 don't quite understand what my ruling in changers has to do
7 with all this.

8 MR. SORKIN: I intended to go into two specific
9 areas, your Honor. I don't think now in light of your
10 Honor's ruling I can go into those two areas.

11 THE COURT: All right. Then we won't go into
12 those two areas.

13 Do you have anything else?

14 MR. SORKIN: I do not at this time. I think I
15 will be through with Mr. Allen tomorrow morning.

16 MR. GOULD: I think he's through with him now,
17 your Honor. I am prepared to conduct redirect.

18 THE COURT: Just a moment. I am sorry, Mr.
19 Sorkin, but as you know we have all been very concerned
20 about the length of this trial. I certainly don't mean
21 to blame this on you.

22 Quite true, you can't go into those two areas.
23 Then the question is, what other areas? If you have any,
24 I think you ought to get into them.

25 (Pause.)

1 THE COURT: While you are thinking about that,
2 if you would like to consult with Mr. Flannery, there is some
3 thing I would like to raise with the jury and that is
4 this. Mrs. DeBartello and ladies and gentlemen. As you know,
5 we had originally thought that the trial would be ending
6 about now, but I have checked as I told you I would yesterday,
7 with counsel and we apparently will not be finishing
8 this week.
9

10 Also I have been reminded that next Monday, the
11 14th, is a Federal holiday. It is one of those holidays,
12 however, where some people work and some people don't.

13 Now, in my opinion, and I am sure everybody
14 shares this with me, you have been most obviously patient
15 and kind with us in this trial and I don't want to trample
16 on your desires here. What I would like to do is ask you
17 what would you think about sitting on Monday even though
18 that is a Federal holiday and normally this court would
19 be closed at least for trials?

20 All the lawyers are perfectly willing to serve on
21 that day, but I want to find out what your wishes would be.

22 I would not do it if any of you felt that you
23 would prefer not to. Perhaps the sensible thing for you to
24 do is think that over and I can canvas you tomorrow morning
25 and see how you feel about it. Would that be preferable?

1 gawe Jerome Allen - cross 2837

2 First thing in the morning. Maybe that would give you a

3 chance to think about it over the evening and then you let

4 me know what you would like to do in the morning.

5 MR. SORKIN: Your Honor, I think I have some

6 additional matters.

7 Q Mr. Allen, did you ever have in your possession

8 copies of documents for opening up bank accounts, a bank

9 account at Bank Hofmann, documents to open up accounts?

10 A I once did and I sent them back. It was many

11 years ago.

12 Q When was that, sir.

13 A '66, '67.

14 Q Where did you obtain them from? Let me ask

15 you this.

16 A Mr. Herbert gave them to me because Dr. Benjamin

17 Gillardi was coming from Uruguay to New York to send them.

18 I was to forward them back to Zurich.

19 Q Did you ever give Mr. Bonavia any documents to

20 open up his bank account at Bank Hofmann?

21 MR. GOULD: I move to strike out the previous

22 questions and answers. I don't see how they have any

23 application to anything we have done here.

24 THE COURT: Standing alone I would agree with

25 you, but I am hoping that maybe we will get to whatever it has

1 jpe Jerome Allen - cross 2838

2 to do with us.

3 MR. GOULD: He's going to something else, your
4 Honor.

5 THE COURT: I am not sure that he is. I can't
6 even hear him. Would you raise your voice. Mr. Allen may
7 have better hearing than I do, but I can't hear you, this
8 last one.

9 MR. SORKIN: Yes, your Honor.

10 Q Did you give Mr. Bonavia documents to open up his
11 account at Bank Hofmann?

12 A I don't believe I did.

13 Q Your testimony today is that the last time you
14 had any of these bank documents was '67, you said?

15 A I said I believe it was '67. I am not sure.

16 MR. SORKIN: May we have these marked, please.

17 A Mr. Sorkin, may I amend that answer, please?

18 Q Before you amend the answer, let's get an exhibit
19 here.

xx 20 (Government's Exhibit 122 marked for identifi-
21 cation.)

22 Q Mr. Allen, would you look at Government's Exhibit
23 122 and tell us if you can identify them?

24 MR. GOULD: It is 112 for identification.

25 A Yes. These are the papers you showed me in your

1 gawe Jerome Allen - cross 2839

2 office.

3 Q Did you give those documents to Mr. Doonan,
4 Mr. Allen?

5 A You showed me these documents.

6 Q Did you give these documents to Mr. Doonan?

7 A No, I did not.

8 Q Mr. Allen, is this your handwriting?

9 A Pardon?

10 Q Is that your handwriting?

11 A Yes.

12 Q When did you put it on there?

13 A You asked me to check out some information. I
14 contacted information. I got a number. I scribbled on the
15 back. I don't recall whose number that is by the way.

16 Q When did I ask you to find out information?

17 A You asked me about a Chuck Phillips in Miami
18 Beech.

19 MR. GOULD: Your Honor, I object at this point
20 unless it becomes apparent that we are dealing with some-
21 thing to do with this case.

22 A I'll get into this if you want an answer.

23 THE COURT: Just a minute.

24 I don't know what you are objecting to at this
25 point because all I can --

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Jerome Allen - cross

2840

MR. GOULD: The whole line, your Honor.

THE COURT: No, I disagree with you. I'm going to allow this line because I believe it does have something to do with the case.

Q Give me a date, Mr. Allen, when I allegedly asked you to find out information about one Chuck Phillips.

MR. GOULD: That's the point.

THE COURT: No. Chuck Phillips, I didn't even hear Chuck Phillips.

Q When did I ask you --

THE COURT: No.

MR. GOULD: He doesn't understand it, your Honor.

THE COURT: This is the thing that he's objecting to. I beg your pardon. I thought we were dealing with some documents.

MR. SORKIN: It was out of his mouth, your Honor.

THE COURT: Mr. Sorkin, as I told you, Mr. Allen is not the trial judge and let's not push that one again, please.

Q Is that your handwriting?

THE COURT: No, Mr. Sorkin. Now I understand the thrust of Mr. Gould's objection. I thought we were dealing with one thing but now we are off on somebody called

1 gawe Jerome Allen - cross 2841
2 Chuch Phillips. I'm not going to get into Chuch Phillips.
3 I thouht we were asking about Government's Exhibit 112
4 for identification.

5 Q Can you identify 112, Mr. Allen?

6 A Yes.

7 Do you want to know what you told me to do with
8 these?

9 THE COURT: Look, Mr. Allen, you are just
10 pouring kerosene on troubled waters.

11 A I recognize these, your Honor.

12 THE COURT: You do recognize them.

13 THE WITNESS: Yes, sir.

14 THE COURT: Next question.
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Q What are they?

A These are -- these are forms to open an account
and you wanted to see whether Chuck --

Q No, wait a second.

A Okay.

Q Mr. Allen, just tell me what they are without
getting into Chuck Phillips.

A These are --

MR. GOULD: But we are into Chuck Phillips,
your Honor. That is the trouble with something.

THE COURT: No, no.

MR. GOULD: I don't know who he is.

THE COURT: I don't want to know and I thought
you objected to finding out. I am sustaining you on that.
Don't keep mentioning his name.

Mr. Witness, with all this badinage from these
gentlemen, I don't blame you for being a little confused.
All Mr. Sorkin is entitled to know at this point is what
are those? Are they bills, notes, letterheads?

THE WITNESS: These are part of the papers used to
open an account at Bank Hofmann. I think they have newer
forms. These are forms to open an account.

THE COURT: At one point or another they were

gab-2

Jerome Allen-cross

used to open an account at a bank?

THE WITNESS: Yes.

THE COURT: Next question.

Q When did you first see them, Mr. Allen?

MR. GOULD: I will object again unless there is some showing that they are connected with this case, your Honor.

THE COURT: In due time, my dear Mr. Gould.

Overruled.

A I saw these -- you handed these to me and you had a request.

Q It is your testimony that you did not give those documents to Mr. Doonan, is that correct?

A That's correct.

THE COURT: The first time you saw them, in other words, was when suddenly Mr. Sorkin or Mr. Doonan produced them?

THE WITNESS: Not Mr. Doonan, Mr. Sorkin.

THE COURT: Sorkin.

THE WITNESS: Yes. He asked me something and handed me the papers.

THE COURT: You didn't produce these, Sorkin did?

THE WITNESS: Yes, your Honor.

THE COURT: All right.

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Jerome Allen-cross

Q The question very simply, Mr. Allen: When did I supposedly show these to you?

MR. GOULD: I object to that unless there is a showing it has something to do with the case.

THE COURT: You want to know the date?

MR. SORKIN: Yes, your Honor.

THE COURT: What month was it? Was it last spring?

THE WITNESS: Your Honor, it was a few days after I came back from Switzerland.

THE COURT: In February?

THE WITNESS: I would say late January.

THE COURT: Late January.

THE WITNESS: Close to that, your Honor.

THE COURT: All right.

Q Mr. Allen, would you please look at Government Exhibits 33, 34 and 35. I ask you if you can identify these?

MR. GOULD: If your Honor please, just in an attempt to preserve my sanity,, if there is no more with respect to Government Exhibit 22 for identification, I now move to strike out all of the questions with respect to it.

THE COURT: No, Mr. Gould, and I will tell you why. I expect there will be a witness to testify about this further.

gab-4

Jerome Allen-cross

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Am I correct, Mr. Sorkin?

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MR. SORKIN: Yes, your Honor.

4

THE COURT: All right.

5

Let us go forward.

6

A I have seen these. Mr. Sorkin, yes.

7

Q The answer is yes?

8

A Yes.

9

Q All right. Let's take No. 33 first. What is 33?

10.

A That is a statement, a copy of a statement that

11

the Bank Hofmann sent me verifying the receipt of my 5000

12

shares which I purchased from my nominees.

13

Q Did you give that over to the Government?

14

A This I gave you, you requested and I gave it to

15

you.

16

MR. SORKIN: Your Honor, we offer 33 in evidence.

17

MR. GOULD: Can we see it?

18

MR. SORKIN: Yes (handing).

19

(Pause.)

20

MR. GOULD: There is no objection to this.

21

MR. FELDSHUH: No objection.

xxx

22

(Government Exhibit 33 for identification

23

received in evidence.)

24

Q Let's --

25

MR. GOULD: Can I ask him a question about that?

1 gab-5

Jerome Allen-cross

2806

2 I meant to under voir dire.

3 VOIR DIRE EXAMINATION

4 BY MR. GOULD:

5 Q Mr. Allen, this term up here Konto Pro Diverse,
6 does that mean anything to you?

7 MR. SORKIN: Your Honor, I think that is not proper
8 voir dire.

9 MR. GOULD: Then you go ahead if you don't think
10 it is proper voir dire. You go ahead and ask your questions.

11 THE COURT: May I ask --

12 MR. GOULD: I think it is.

13 THE COURT: May I see this document?

14 MR. SORKIN: Yes, your Honor.

15 THE COURT: I suppose we have no copies.

16 MR. SORKIN: We do. I will be happy to give you
17 one.

18 (Pause.)

19 THE COURT: Thank you.

20 Mr. Gould, Mr. Feldshuh and Mr. Sorkin, there
21 is a little document on there that I think is not part of
22 the exhibit.

23 MR. SORKIN: That is correct, your Honor. We
24 are going to remove that.

25 (Pause.)

gab-6

Jerome Allen-cross

1 gab-6 Jerome Allen-cross

2 THE COURT: All right. What next?

3 BY MR. SORKIN:

4 Q Mr. Allen, Mr. Gould asked you what is Konto Pro
5 Diverse? Why don't you tell us what that means.

6 THE COURT: If you know.

7 A I don't think I know. Konto means account, I
8 believe. I speak and write French, but not German. Diverse
9 to my knowledge is not a French word.

10 Q Did the stock, Mr. Allen, of your five nominees
11 go into your account Erika?

12 MR. GOULD: I object to that as having been
13 asked and answered several times, your Honor.

14 THE COURT: It seems to me that is right.

15 MR. SORKIN: I don't think that has been, your
16 Honor. On direct examination there was mention of stock
17 being sold. I asked him if he had an account Erika. I
18 haven't asked him if the stock went --

19 THE COURT: On direct examination, you don't mean
20 that. Mr. Gould--

21 MR. SORKIN: Mr. Gould's direct.

22 THE COURT: I know that. In any event, rather than
23 debate it --

24 MR. GOULD: May I respectfully make a suggestion?
25 IN view of Mr. Sorkin's asserted ignorance of the meaning

1 gab-7

Jerome Allen-cross

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2 of the words Konto Pro Diverse and the witness' asserted ig-
3 norance thereof, it is really an imposition to expect the
4 jury to know what we are talking about unless somebody in
5 this room wants to undertake to tell them what the words
6 mean.

7 MR. SORKIN: I think I know what it is, your
8 Honor.

9 MR. GOULD: I don't think I know, I know.

10 THE COURT: Just a moment. I am sure I do. I
11 am very pleased to hear it. At this point I would like to
12 get on with the trial.

13 Now, what is it you want to ask this witness
14 about Erika?

15 Q Mr. Allen, did the 5000 shares belonging to your
16 four nominees and your own thousand shares go into your
17 account Erika?

18 A Went into my account, yes.

19 Q At what point in time was it placed into your
20 account?

21 A When they physically put it into my account?

22 Q Yes.

23 A You would have to ask them. I don't know.

24 Q It wasn't put into account Diverse, was it?

25 MR. GOULD: If your Honor please, there is no

gab-8

Jerome Allen-cross

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evidence in this case that there is any account diverse.

THE COURT: I would agree.

I will sustain that objection to that question.

Q Mr. Allen, do you know if there is such an account at Bank Hofmann called account Diverse?

A No, sir.

THE COURT: You mean you don't?

THE WITNESS: I don't know. It was suggested to me once, but I don't know.

Q Mr. Allen, when did you receive this document from the bank?

A The one certifying that I sold them the shares?

Q This --

A You showed me three documents.

Q This 33.

A The date I received it?

Q Yes, sir.

A I don't remember the exact date.

Q Do you remember the year?

A It would be '69 I assume.

Q Did you call Mr. Herbert and ask Mr. Herbert what Konto Pro Diverse was doing on your account?

A No, there is a lot of things --

Q Just yes or no.

1 gab-9 Jerome Allen-cross 28-11
2 A No, because I received a check. I had no
3 question. They can't make a check payable to Erika. It has
4 to be payable to Jerome Allen.

5 Q Did you ask Mr. Herbert or Mr. Ballmer or anyone
6 at the bank what account Diverse is doing on your statement?

7 A My name is on it.

8 MR. GOULD: If your Honor please --

9 THE COURT: Just a moment.

10 MR. GOULD: I must object to the question because
11 there is no evidence --

12 THE COURT: You don't even have to make that
13 point, Mr. Gould. He has already answered and said that he
14 didn't ask anybody anything about this. So that has been
15 over and done with. The questioner is bound by that answer.

16 Let's go on.

17 Q Mr. Allen, let me show you No. 34 for identifica-
18 tion. Do you recognize that document?

19 A Yes, that is a statement that the bank -- that
20 shows that they sold the stock for \$50,000, they were charging
21 me 425 commission --

22 Q Generically what is the document, Mr. Allen?

23 A Generically it is a statement that I am credited
24 with \$49,575.

25 Q When did you receive that?

gab-10

Jerome Allen-cross

2831

A I don't know the exact date. It is dated the end of February. When I received this in the mail?

Q Yes, sir.

A How could I remember what day it came to my home?

MR. SORKIN: Your Honor, we offer 34 in evidence.

MR. FELDSHUH: Do you have a copy of this?

MR. SORKIN: Yes, I do.

(Pause.)

MR. GOULD: No objection.

MR. FELDSHUH: No objection, your Honor.

xxx (Government Exhibit 34 for identification was received in evidence.)

Q Mr. Allen, would you look at No. 35 for identification. I ask you, sir, if you can identify that?

A Yes, sir. This is the statement that they sent me a check drawn on the New York correspondent bank payable to yourself, me, for \$49,575.

Q What is it, a receipt or a confirmation?

A It says so right here in English.

Q Is it a receipt, Mr. Allen?

A It is a receipt. You call it that, yes.

Q That is the document you received from the bank?

A Yes, I did,

gab-11

Jerome Allen-cross

2879

MR. SORKIN: Your Honor, we offer 35 in evidence.

(Pause.)

MR. GOULD: No objection.

MR. FELDSHUH: No objection.

(Government Exhibit 35 for identification
was received in evidence.)

Q Mr. Allen, would you look, please, at the date on
that document, No. 34.

A February 25, 1969.

Q Did Mr. Stoller give the stock to the bank on
February 25, received your check, to your knowledge, on that
particular day?

A I testified --

THE COURT: Just a moment, Mr. Allen. Mr.
Gould wants to object.

MR. GOULD: Your Honor, we have been over
this so many ways.

THE COURT: Yes, and more than that, Mr. Sorkin,
in addition to the at least three occasions that the witness
was called upon by you to answer that, in effect he didn't
put it quite that way. I don't think that is an
appropriate question or a fair question.

Q Mr. Allen, can you just tell us, please, if you
know why on Exhibit 33 the date is March 11, 1969, Exhibit

1 gab-12

Jerome Allen-cross

2853

2 34 shows February 25, 1969, and Exhibit 35 shows March
3 12, 1969? If you know?

4 A Well, I will take one step at a time. On February
5 25 there is a statement that I sold to the bank 10,000 --
6 5000 shares at 10 and they are crediting me 49,575.

7 On March 12th they sent me a receipt of the fact
8 that a check is enroute, of the fact that a check is
9 enroute to me for \$49,000 following the sale of the stock.

10 Q What is the March 11th date then?

11 A March 12. Let me finish, please.

12 Q You are looking at 35 then.

13 A That is March 12.

14 Q Yes, all right.

15 A Okay. March 11, which is a day before, they sent
16 me a receipt for the check. They apparently booked this --

17 Q Not apparently. Do you know?

18 MR. FELDSHUH: He asked why.

19 MR. GOULD: He asked why, your Honor.

20 MR. SORKIN: If he knows, your Honor.

21 THE COURT: Apparently he is telling us what he
22 knows. Go ahead.

23 MR. FELDSHUH: Yes.

24 A Apparently on March 11th they prepared a statement
25 with certificate numbers. Now, I have received, in answer

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1 to your question, receipts for securities before or after
2 the sale date. That is orthodox procedure. Sometimes they
3 sold the stock and received a check and they would draft in
4 certificate numbers two or three months later as member
5 firms in New York do.
6

7 The settlement date and sale date do not coincide.
8 You know that.

9 Q Did it take from the 25th to the 12th for you
10 to receive the check?

11 MR. FELDSHUH: Objection.

12 A It is five days --

13 THE COURT: Just a moment.

14 THE WITNESS: I am sorry, your Honor. I am just
15 on edge. I am sorry, your Honor.

16 THE COURT: Again I think that is objectionable
17 as to form.

18 Q When did you receive your check, Mr. Allen?

19 A I don't remember the exact date. I assume
20 it was five to ten days after I requested they send it.

21 Q Do you remember when you deposited it into your
22 bank account, Royal Bank of Canada?

23 MR. GOULD: I object to that.

24 A I don't have the date, Mr. Sorkin.

25 MR. GOULD: I don't see how it could possibly

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2 affect any issues in the case, your Honor.

3 THE COURT: Wait a minute. I am sorry. I
4 disagree with you on that. I am going to allow the answer
5 to stand.

6 You don't have any recollection, and I assume
7 you have no documents --

8 THE WITNESS: Yes, sir. I gave Mr. Sorkin my
9 deposit slip at the Royal Bank of Canada.

10 THE COURT: You did.

11 Q Do you remember when, Mr. Allen, you deposited
12 it into the Royal Bank of Canada?

13 THE COURT: He says --

14 A I have you the slip. I don't recall the date.

15 Q Let me show you Government Exhibit 36, Mr.
16 Allen. See if you can identify it.

17 MR. FELDSHUH: Is that in evidence?

18 MR. SORKIN: No, it is not.

19 A It looks like -- there seems to be a mark over
20 a mark.

21 Q Can you just identify the document?

22 A I identify this as a Xerox of a bank statement,
23 yes, sir.

24 Q Is it your bank statement?

25 A Yes, it is.

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2 Q Did you give that to the Government?

3 A I gave that to you, yes, sir.

4 MR. SORKIN: We offer 36.

5 MR. GOULD: Let me see what you got there.

6 (Pause.)

7 MR. GOULD: Could I just ask the witness a question
8 about the document, your Honor, under voir dire?

9 THE COURT: Yes.

10 VOIR DIRE EXAMINATION

11 BY MR. GOULD:

12 Q Is there anything on this paper that refreshes your
13 recollection as to when you made a deposit of a particular
14 check or a particular item?

15 A Mr. Gould, in answer to that there is an entry
16 here for \$49,000, and I don't know whether I deposited the
17 check or the bank wired it to my account.

18 Q I see. This is the one. I couldn't see.

19 A These are the checks.

20 Q These are drawn checks?

21 A These are my deposits, 49,500. There seems to be
22 a mark over the date. It looks like March 17, but that is
23 a handwritten 7. That is not a Xerox. There is a mark
24 over the Xerox.

25 Q I see what you mean.

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A That can be erased and the Xerox can't. I am
sorry.

MR. GOULD: May I just confer with Mr. Sorkin
about this a moment, your Honor?

Maybe we can save some time.

(Pause.)

MR. GOULD: If your Honor please, the defense is
prepared to concede that in this document which the witness
has testified he gave to Mr. Sorkin, the document
being a conventional monthly statement from the Royal Bank
of Canada to Mr. Jerome Allen, there is an entry which records
the deposit of \$49,575 on March 17, 1969. We will concede
that fact, and I assume the exhibit is withdrawn. It is
illegible anyway.

MR. SORKIN: It is not withdrawn to the extent,
your Honor, that we are offering it as a document that Mr.
Allen gave to the Government which he identified. We offer
it in evidence.

MR. FELDSHUH: To that extent?

MR. SORKIN: To that extent, that is correct.

MR. FELDSHUH: I join in the concession, your
Honor, stated by Mr. Gould.

MR. GOULD: I might as well not object.

Let it come in. I thought we were saving some

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2 time.

3 I am sorry, your Honor. No objection.

4 THE COURT: All right.

5 Ladies and gentlemen of the jury, we will
6 suspend now until 9:30 tomorrow morning. As I said, I will
7 try to ask you first thing before we begin what you think
8 about next Monday.

9 Have a good evening.

10 (Government Exhibit 36 for identification
11 was received in evidence.)

12 (Adjourned to Thursday, October 10, 1974,
13 at 9:30 A.M.)

14 -----

WITNESS INDEX

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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EXHIBIT INDEX

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